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Pandrea v. Barrett Clerk's Record v. 2 Dckt. 42333

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IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

Supreme Court Docket #42333-2014
Bonner County CV2011-0835

MARY E. PANDREA,

Plaintiff / Counter Defendant / Appellant

VS.

**KENNETH J. BARRETT and
DEANNA L. BARRETT,**

Defendant / Counter Claimant / Respondent.

CLERK'S RECORD ON APPEAL

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Bonner.*

Mary E. Pandrea

Pro Se

Pro Se for Appellant

Richard K. Kuck

Attorney at Law

Attorney for Respondent



VOLUME II

ORIGINAL

42333

IN THE SUPREME COURT OF THE
STATE OF IDAHO

MARY E. PANDREA,)	
)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
)	
v.)	
)	
KENNETH J. BARRETT and)	
DEANNA L. BARRETT,)	
)	
Defendant / Respondent.)	
_____)	

Appeal from the First Judicial District, Bonner County, Idaho

HONORABLE JOHN PATRICK LUSTER, presiding,

Mary E. Pandrea, Pro Se, 4687 Upper Pack River Road, Sandpoint, Idaho, 83864

Richard K. Kuck, Attorney at Law, P.O. Box 1320, Coeur d'Alene, Idaho 83816-1320

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA,)	
)	
Plaintiff / Appellant,	)	SUPREME COURT NO. 42333-2014
	)	BONNER COUNTY CASE CV2011-0835
)	
v.	)	CLERK'S RECORD ON APPEAL
)	
KENNETH J. BARRETT and)	
DEANNA L. BARRETT,)	
)	
Defendant / Respondent.)	
_____)	

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the First Judicial District of the State of Idaho, in and
for the County of Bonner.

HONORABLE JOHN PATRICK LUSTER
District Judge

MARY E. PANDREA
PRO SE
4687 UPPER PACK RIVER ROAD
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Clerk's Record on Appeal -1-

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Notice of Transcript Lodge filed November 3, 2014	Vol. V – p. 967
Notice of Transcript Lodged filed October 10, 2014	Vol. V – p. 964
Notice of Transcript Lodged filed October 29, 2014	Vol. V – p. 965
Notice of Transcript Preparation filed December 11, 2012	Vol. II – p. 303
Notice of Unavailability filed December 3, 2013	Vol. III – p. 581
Objection to Clark’s Motion for Entry of Final Judgment filed January 3, 2014	Vol. III – p. 589
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Objection to Judgment Motion for Hearing or For Findings of Fact and Conclusions of Law filed January 3, 2014	Vol. IV – p. 652
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Order Conditionally Dismissing Appeal for a Final Judgment filed July 24, 2014	Vol. V – p. 934
Order Denying Defendant’s Motion to Continue Trial filed May 1, 2012	Vol. I – p. 162
Order Denying John F. Thornton’s Motion to Intervene and Motion for Stay signed January 17, 2014 and filed March 10, 2014	Vol. V – p. 843
Order Denying Plaintiff’s Re-Filed Motion to Reconsider filed November 6, 2013	Vol. III – p. 571
Order Dismissing Appeal filed April 25, 2014	Vol. V – p. 870
Order Granting Motion for Leave to Withdraw as Attorney of Record filed March 28, 2013	Vol. II – p. 340
Order of Reassignment filed July 12, 2011	Vol. I – p. 79
Order of Reassignment filed May 20, 2011	Vol. I – p. 54
Order Re: Fee Waiver filed July 14, 2014	Vol. V – p. 923
Order to Amend Complaint filed October 12, 2011	Vol. I – p. 93
Order to Amend Complaint filed October 6, 2011	Vol. I – p. 91
Order to Amend Complaint filed September 23, 2011	Vol. I – p. 82
Order to Disqualify Judge filed July 5, 2011	Vol. I – p. 77
Order to Disqualify Judge filed May 20, 2011	Vol. I – p. 52
Order to Reinstate Appellate Proceedings filed October 9, 2014	Vol. V – p. 961
Pandrea’s Affidavit for Costs and Attorney Fees filed Feb. 7, 2014	Vol. IV – p. 757
Pandrea’s Motion to Void Judgment filed May 8, 2014	Vol. V – p. 903

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Plaintiff Mary Pandrea's Motion for Leave to File the Second Amended Complaint and to Add Defendant's filed August 30, 2013	Vol. III – p. 522
Plaintiff Mary Pandrea's Response to Clark's Objection to Exhibit and Request for Judicial Notice filed May 29, 2014	Vol. V – p. 910
Plaintiff's Exhibit List filed May 17, 2012	Vol. I – p. 176
Plaintiff's Memorandum in Support of Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification filed Feb. 7, 2014	Vol. IV – p. 761
Plaintiff's Memorandum of Costs and Attorney Fees filed February 7, 2014	Vol. IV – p. 743
Plaintiff's Motion for Attorney Fees and Costs filed Feb. 7, 2014	Vol. IV – p. 740
Plaintiff's Motion for Reconsideration of Final Judgment and decree of Partition and Clarification filed February 7, 2014	Vol. IV – p. 720
Plaintiff's Motion for Reconsideration of Trial Decision filed Mar. 6, 2013	Vol. II – p. 327
Plaintiff's Notice of Intent to Withdraw and Re-File Prior Pro Se Filings filed April 26, 2013	Vol. II – p. 359
Plaintiff's Objection to Defendant's Motion to Continue Hearing on Plaintiff's Motion for Reconsideration filed June 24, 2013	Vol. III – p. 478
Plaintiff's Opposition to Defendant's Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate Sanctions filed April 26, 2013	Vol. II – p. 362
Plaintiff's Re-Filed Motion for Reconsideration of Trial Decision (Without Argument) filed April 26, 2013	Vol. II – p. 353
Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision filed June 24, 2013	Vol. III – p. 475
Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of Law filed June 17, 2013	Vol. III – p. 463
Plaintiff's Response to Defendant's Objection and Reply in Support of Motion for Leave to Amend Complaint and Add Defendant's filed Oct. 16, 2013	Vol. III – p. 556

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Plaintiff's Second Supplemental Exhibit List filed May 22, 2012.....	Vol. I - p. 186
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Plaintiff's Third Supplemental Exhibit List filed May 31, 2012	Vol. II - p. 261
Plaintiff's Trial Brief filed May 24, 2012	Vol. I - p. 191
Plaintiff's Witness List filed May 17, 2012	Vol. I - p. 174
Pre-Hearing Memorandum in Support of Plaintiff's Position Regarding Entry of Final Judgment filed January 13, 2014	Vol. IV - p. 684
Re-File Declaration of Pandrea filed April 26, 2013	Vol. II - p. 356
Remittitur filed May 22, 2014	Vol. V - p. 909
Remittitur filed May 30, 2014	Vol. V - p. 918
Reply to Counterclaim filed November 15, 2011	Vol. I - p. 108
Respondent's Request for Additional Transcript filed July 24, 2014	Vol. V - p. 936
Response to Second Order Conditionally Dismissing appeal Re: Final Judgment filed September 15, 2014	Vol. V - p. 953
Revised Judgment and Decree of Partition filed Jan. 24, 2014	Vol. IV - p. 713
ROAs	Vol. I - p. 21, Vol. II - p. 220, Vol. III - p. 423, Vol. IV - p. 631 and Vol. V - p. 821
Second Affidavit of Service of Order Granting Motion for Leave to Withdraw as Attorney of Record filed April 17, 2013	Vol. II - p. 349
Second Order Conditionally Dismissing Appeal Re: Final Judgment filed September 2, 2014	Vol. V - p. 945
Statement dated 9/29/2014 for transcripts filed Oct. 10, 2014	Vol. V - p. 963
Stipulation for Enlargement of Time to Take Depositions of Parties and Witnesses filed May 9, 2012	Vol. I - p. 171
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Stipulation for Order to Allow Withdrawal as Attorney of Record filed March 13, 2013	Vol. II - p. 332
Summons filed May 12, 2011	Vol. I - p. 45
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Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/11/2011	NCOC	PHILLIPS	New Case Filed - Other Claims
	APER	PHILLIPS	Plaintiff: Pandrea, Mary Appearance Douglas S. Marfice
		PHILLIPS	Filing: A - All initial civil case filings of any type not listed in categories B-H, or the other A listings below Paid by: Ramsden & Lyons Receipt number: 0456705 Dated: 5/12/2011 Amount: \$88.00 (Check) For: Pandrea, Mary (plaintiff)
	COMP	PHILLIPS	Complaint Filed - Complaint for Partition and Accounting
5/12/2011	SMIS	PHILLIPS	Summons Issued
5/13/2011		KELSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0456761 Dated: 5/13/2011 Amount: \$16.00 (Check)
5/19/2011		PHILLIPS	Miscellaneous Payment: For Comparing And Conforming A Prepared Record, Per Page Paid by: Ramsden & Lyons Receipt number: 0456994 Dated: 5/19/2011 Amount: \$2.00 (Check)
		PHILLIPS	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Ramsden & Lyons Receipt number: 0456994 Dated: 5/19/2011 Amount: \$1.00 (Check)
	MISC	PHILLIPS	Lis Pendens filed
	MODQ	PHILLIPS	Motion To Disqualify
5/20/2011	DISA	PHILLIPS	Disqualification Of Judge - Automatic
	ORDR	PHILLIPS	Order to Disqualify Judge
	CHJG	PHILLIPS	Change Assigned Judge
	ORDR	PHILLIPS	Order of Reassignment
	CHJG	PHILLIPS	Change Assigned Judge
3/7/2011	AFSV	OPPELT	Affidavit Of Service
3/20/2011		BOWERS	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Clark, Kari (defendant) Receipt number: 0458688 Dated: 6/20/2011 Amount: \$58.00 (Check) For: Clark, Kari (defendant)
	NOTC	PHILLIPS	Notice of Appearance
	APER	PHILLIPS	Defendant: Clark, Kari Appearance Pro Se
	MODQ	PHILLIPS	Motion To Disqualify Judge
3/22/2011	NOTC	OPPELT	Notice of Intent to Take Default
	FIOC	OPPELT	File Out Of County - Judge Simpson
3/24/2011	ANSW	PHILLIPS	Answer to Complaint for Partition and Accounting
3/28/2011	MISC	PHILLIPS	Exhibit A to Complaint filed - omitted from original filing

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/29/2011	ANSW	PHILLIPS	Answer to Complaint for Partition and Accounting (filed by Shirley Bade for Defendant) - no Sub of Counsel filed Benjamin R. Simpson
7/5/2011	FIRT	PHILLIPS	File Returned Benjamin R. Simpson
	ORDR	PHILLIPS	Order to Disqualify Judge Benjamin R. Simpson
	DISA	PHILLIPS	Disqualification Of Judge - Automatic Benjamin R. Simpson
	CHJG	PHILLIPS	Change Assigned Judge District Court Clerks
7/12/2011	ORDR	PHILLIPS	Order of Reassignment John T. Mitchell
	CHJG	PHILLIPS	Change Assigned Judge John Patrick Luster
7/20/2011	FIOC	OPPELT	File Out Of County - Judge Simpson John Patrick Luster
8/31/2011	HRSC	CMOORE	Hearing Scheduled (Status Conference 10/24/2011 03:00 PM) (to be heard in Kootenai County) John Patrick Luster
		CMOORE	Notice of Hearing John Patrick Luster
8/7/2011	STIP	MORELAND	Stipulation for Filing of Amended Complaint (no order provided) John Patrick Luster
8/19/2011		PHILLIPS	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Pandrea Receipt number: 0463161 Dated: 9/19/2011 Amount: \$2.00 (Check) John Patrick Luster
8/21/2011	MISC	PHILLIPS	faxed proposed order and proposed amended complaint to Judge Simpson John Patrick Luster
8/23/2011	ORDR	PHILLIPS	Order to Amend Complaint Benjamin R. Simpson
10/3/2011	AMCO	PHILLIPS	Amended Complaint Filed (nunc pro tunc) John Patrick Luster
10/6/2011	ORDR	PHILLIPS	Order to Amend Complaint (nunc pro tunc) John Patrick Luster
10/12/2011	ORDR	HENDRICKSO	Order to Amend Complaint John Patrick Luster
10/13/2011	MISC	HENDRICKSO	Acknowledgment Pursuant to Rule 16(k)(7) IRCP Regarding Case Status/ Mediation John Patrick Luster
10/19/2011	FIOC	HENDRICKSO	File Out Of County John Patrick Luster
	ANSW	HENDRICKSO	Answer to Amended Complaint for Partition and Accounting and John Patrick Luster
	CNTR	HENDRICKSO	Counterclaim John Patrick Luster
10/24/2011	CTLG	OPPELT	Court Log- From Kootenai County John Patrick Luster
	DCHH	OPPELT	Hearing result for Status Conference scheduled on 10/24/2011 03:00 PM: District Court Hearing Held John Patrick Luster
			Court Reporter: Anne MacManus Brownell Number of Transcript Pages for this hearing estimated: (to be heard in Kootenai County) - Less Than 100 Pages
10/27/2011	FIRT	OPPELT	File Returned John Patrick Luster
11/2/2011	HRSC	OPPELT	Hearing Scheduled (Court Trial - 2 Days 05/30/2012 09:00 AM) John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
11/2/2011		OPPELT	Notice Of Trial (Uniform Pretrial Order Attached) John Patrick Luster
11/8/2011		BOWERS	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Pandrea, Mary Receipt number: 0465379 Dated: 11/8/2011 Amount: \$8.00 (Check) John Patrick Luster
11/14/2011	REQU	HENDRICKSO	Defendant/Counterclaimant's Requests For Admissions, Answers to Interrogatories, and Production of Documents to Plaintiff/Counter Defendant MARY E. Pandrea, Set One John Patrick Luster
11/15/2011	REPL	HENDRICKSO	Reply to Counterclaim John Patrick Luster
11/16/2011	NOSV	HENDRICKSO	Defendant/Counterclaimant's Notice of Service of Request For Admissions, Answers to Interrogatories, and Production of Documents, Set one Upon Plaintiff/Counterdefendant Mar E. Pandrea John Patrick Luster
12/13/2011	NOSV	HENDRICKSO	Notice of Service John Patrick Luster
12/29/2011	NOSV	HENDRICKSO	Notice of Service of Discovery Responses John Patrick Luster
12/30/2011	NOSV	HENDRICKSO	Notice of Service of Discovery Requests John Patrick Luster
1/4/2012	NOTC	HENDRICKSO	Notice of Compliance - (expert witnesses) T. Smet John Patrick Luster
1/30/2012	NOTC	OPPELT	Notice of Compliance John Patrick Luster
2/7/2012	NOSV	OPPELT	Notice Of Service of Defendant/Counterclaimants' Response to Plaintiff/Counter Defendant's First Set of Interrogatories and Requests for Production of Documents John Patrick Luster
2/10/2012		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Receipt number: 0469328 Dated: 2/10/2012 Amount: \$3.00 (Cash) John Patrick Luster
3/5/2012	NOTC	HENDRICKSO	Notice of Compliance with Pretrial Order re: Defendant/Counterclaimants' Expert Witness Disclosure John Patrick Luster
4/4/2012	NOHG	HENDRICKSO	Notice of Hearing of Defendant/Counter Claimant's Motion to Continue Trial John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Continue 04/25/2012 04:00 PM) Defendant/Counter Claimant's Motion to Continue Trial John Patrick Luster
4/11/2012	MOTN	HENDRICKSO	Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Ethel M. Boyd in Support of Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Kari A. Clark in Support of Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
1/11/2012	AFFD	HENDRICKSO	Affidavit of Shirley Bade in Support of Defendant/Counterclaimant's Motion To Continue Trial John Patrick Luster
1/19/2012	FIOC	OPPELT	File Out Of County - Judge Luster John Patrick Luster
1/25/2012	CTLG	OPPELT	Court Log- From Kootenai County - No CD John Patrick Luster
	DCHH	OPPELT	Hearing result for Motion to Continue scheduled on 04/25/2012 04:00 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: Defendant/Counter Claimant's Motion to Continue Trial - Kootenai County - Less Than 100 Pages John Patrick Luster
	DENY	OPPELT	Hearing result for Motion to Continue scheduled on 04/25/2012 04:00 PM: Motion Denied Defendant/Counter Claimant's Motion to Continue Trial - Kootenai County John Patrick Luster
1/1/2012	ORDR	HENDRICKSO	Order Denying Defendant's Motion To Continue Trial John Patrick Luster
1/4/2012	FIRT	OPPELT	File Returned John Patrick Luster
	NOTD	OPPELT	Notice Of Deposition of Plaintiff/Counter Defendant Mary E. Pandrea John Patrick Luster
1/9/2012	NOSV	HENDRICKSO	Notice of Service of Discovery Responses John Patrick Luster
	NOTC	HENDRICKSO	Notice of Compliance John Patrick Luster
	STIP	HENDRICKSO	Stipulation for Enlargement of Time to Take Depositions of Parties and Witnesses John Patrick Luster
1/17/2012	FIOC	OPPELT	File Out Of County - Judge Luster John Patrick Luster
	WITN	HENDRICKSO	Plaintiff's Witness List John Patrick Luster
	EXHB	HENDRICKSO	Plaintiff's Exhibit List John Patrick Luster
1/18/2012	EXHB	HENDRICKSO	Plaintiff's Supplemental Exhibit List John Patrick Luster
1/22/2012	EXHB	HENDRICKSO	Plaintiff's Second Supplemental Exhibit List John Patrick Luster
1/24/2012	BREF	HENDRICKSO	Plaintiff's Trial Brief John Patrick Luster
1/25/2012	BREF	HENDRICKSO	Defendant's Trial Brief John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Court Trial - 2 Days scheduled on 05/30/2012 09:00 AM: Hearing Vacated John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Court Trial - 2 Days 06/12/2012 09:00 AM) to be held in Kootenai County John Patrick Luster
		HENDRICKSO	Notice Of Court Trial John Patrick Luster
1/31/2012	EXHB	HENDRICKSO	Plaintiff's Third Supplemental Exhibit List John Patrick Luster
1/6/2012	NOTC	HENDRICKSO	Notice of Taking Deposition of Suzanne Metzger John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
11/13/2012	DCHH	HENDRICKSO	Hearing result for Court Trial - 2 Days scheduled on 06/12/2012 09:00 AM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: to be held in Kootenai County
11/14/2012	MINE	HENDRICKSO	Minute Entry re: closing briefs
	MISC	HENDRICKSO	*****END OF FILE #1*****BEGIN FILE #2*****
11/18/2012	BREF	OPPELT	Plaintiff's Post-Trial Brief
11/19/2012	BREF	OPPELT	Defendant's Post-Trial Brief and Closing Argument
11/16/2012	HRSC	HENDRICKSO	Hearing Scheduled (Status Conference 11/21/2012 03:00 PM) to be held in Kootenai County
		HENDRICKSO	Notice Of Hearing
		HENDRICKSO	Decision re: Court Trial
11/17/2012	MISC	HENDRICKSO	Document faxed to Judge - Notice of Hearing
11/20/2012	OBJC	OPPELT	Defendant's Objection to Proposed Judgment and Decree of Partition and Request for Hearing
11/21/2012	DCHH	OPPELT	Hearing result for Status Conference scheduled on 11/21/2012 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: to be held in Kootenai County - Under 100 Pages
11/30/2012	HRSC	OPPELT	Hearing Scheduled (Motion 01/14/2013 03:00 PM) to Clarify Survey
		OPPELT	Notice Of Hearing
12/11/2012	NOTC	HENDRICKSO	Notice of Transcript Preparation
1/10/2013	AFFD	HENDRICKSO	Affidavit of John Marquette in Support of Plaintiff's Proposed Judgment
	AFFD	HENDRICKSO	Affidavit of Mary E. Pandrea In Support of Plaintiff's Proposed Judgment
1/14/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/14/2013 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: to Clarify Survey (In Kootenai County)
1/15/2013	MISC	HENDRICKSO	Decision on Defendant's Objection to Proposed Judgment
2/5/2013	NSSC	OPPELT	Notice Of Substitution Of Counsel
	APER	OPPELT	Defendant: Clark, Kari Appearance Richard Keating Kuck
3/5/2013	NOAP	MORELAND	Notice Of Appearance

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/5/2013	APER	MORELAND	Plaintiff: Pandrea, Mary Appearance Pro Se
	MISC	MORELAND	Declaration of Pandrea
	OBJC	MORELAND	Plaintiff Mary Pandrea's Objection to Ruling Based on Clouded Title & Defendant's Failure to Provide a True & Accurate Accounting
	MISC	HENDRICKSO	*****END OF FILE #2*****BEGIN FILE #3*****
3/6/2013	MOTN	HENDRICKSO	Plaintiff's Motion for Recosideration of Trial Decision
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Motion for Reconsideration of Trial Decision
	MISC	HENDRICKSO	****END OF FILE #3*****BEGIN FILE #4*****
3/13/2013	MOTN	HENDRICKSO	Motion for Leave to Withdraw as Attorney of Record - Attorney D. Marfice
	STIP	HENDRICKSO	Stipulation for Order to Allow Withdrawal as Attorney of Record
	NOHG	HENDRICKSO	Notice of Hearing
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Withdraw 03/28/2013 03:00 PM) Kootenai County
3/14/2013	CINF	HENDRICKSO	Documents faxed to Judge Luster
3/22/2013		KRAMES	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0487907 Dated: 3/22/2013 Amount: \$32.00 (Check)
3/28/2013	MOTN	HENDRICKSO	Defendant's Moton to Strike Plaintiff's Pro-Se Pleadings and Request for Appropriate Sanctions
	CINF	HENDRICKSO	Document faxed to Judge Luster
	ORDR	HENDRICKSO	Order Granting Motion for Leave to Withdraw as Attorney of Record
	DCHH	HENDRICKSO	Hearing result for Motion to Withdraw scheduled on 03/28/2013 03:00 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County
	GRNT	HENDRICKSO	Hearing result for Motion to Withdraw scheduled on 03/28/2013 03:00 PM: Motion Granted Kootenai County
4/1/2013	FIRT	HENDRICKSO	File Returned
4/4/2013	AFFD	JACKSON	Affidavit of Service of Order Granting Motion for Leave to Withdraw as Attorney of Record
4/5/2013		HUMRICH	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Pandrea, Mary Receipt number: 0488546 Dated: 4/5/2013 Amount: \$2.00 (Cash)
4/8/2013	NOAP	JACKSON	Notice Of Appearance (by Mary E. Pandrea)

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
4/17/2013	AFSV	HENDRICKSO	Second Affidavit of Service of Order Granting Motion For Leave to Withdraw as Attorney of Record	John Patrick Luster
4/26/2013	MOTN	HENDRICKSO	Plaintiff Re-Filed Motion for Reconsideration of Trial Decision (Without Argument)	John Patrick Luster
	MISC	HENDRICKSO	Re-Filed Declaration of Pandrea	John Patrick Luster
	OBJC	HENDRICKSO	Plaintiff Mary Pandrea's Re-Filed Objection to RULing Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	John Patrick Luster
	NOTC	HENDRICKSO	Plaintiff's Notice of Intent to Withdraw and Re-File Prior Pro Se Filing	John Patrick Luster
	MISC	HENDRICKSO	Plaintiff's Opposition to Defendant's Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate Sanctions	John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Refiled Motion for Reconsideration of Trial Decision (Without Argument)	John Patrick Luster
	MISC	HENDRICKSO	****END OF FILE #4****BEGIN OF FILE #5*****	John Patrick Luster
5/7/2013	NOHG	HENDRICKSO	Notice Of Hearing - Plaintiff's Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Hearing Scheduled 06/19/2013 03:00 PM) Plaintiff's Re-Filed Objection Kootenai County	John Patrick Luster
	NOHG	HENDRICKSO	Notice Of Hearing Plaintiff's Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/19/2013 03:00 PM) Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
5/30/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Objection to Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting	John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Hearing Scheduled scheduled on 06/19/2013 03:00 PM: Hearing Vacated and will be rescheduled Plaintiff's Re-Filed Objection Kootenai County	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/13/2013 09:30 AM) Kootenai County re: Re-Filed Objection	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User		Judge
5/30/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	HRVC	HENDRICKSO	Hearing result for Motion scheduled on 06/19/2013 03:00 PM: Hearing Vacated to be rescheduled Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/13/2013 09:30 AM) Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
5/31/2013	FIOC	HENDRICKSO	File Out Of County	John Patrick Luster
5/4/2013	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	CONT	HENDRICKSO	Continued (Motion 06/14/2013 09:40 AM) Kootenai County re: Re-Filed Objection	John Patrick Luster
	NOHG	HENDRICKSO	Amended Notice of Hearing re: Re-Filed Motion for Reconsideration Without Argument	John Patrick Luster
	CONT	HENDRICKSO	Continued (Motion 06/14/2013 09:40 AM) Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County	John Patrick Luster
5/11/2013	AFFD	HENDRICKSO	Affidvit of John Marquette	John Patrick Luster
5/12/2013	AFFD	HENDRICKSO	Affidavit of John Pandrea In Support of Plaintiff Mary E. Pandrea's Re-Filed Motion for Reconsideration	John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Debbie A. Gadbow in Support of Mary Pandrea's Re-Filed Motion for Reconsideration of Trial Decision (Without Argument)	John Patrick Luster
	NOFG	HENDRICKSO	Notice of Filing of Record of Survey and Legals	John Patrick Luster
	MOTN	HENDRICKSO	Defendant's Motion to Amend Findings of Fact and Conclusions of Law	John Patrick Luster
	NOHG	HENDRICKSO	Notice of Hearing re: Defendant's Motion to Amend Findings of Fact and Conclusions of Law	John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/14/2013 09:40 AM) Defendant's Motion to Amend Findings of Fact and Conclusions of Law	John Patrick Luster
	RSPN	HENDRICKSO	Defendant Clark's Response to Plaintiff's Motion for Reconsideration	John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/14/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County re: Re-Filed Objection John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Defendant's Motion to Amend Findings of Fact and Conclusions of Law John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/14/2013 09:40 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Kootenai County Plaintiff's Motion for Reconsideration without Argument Kootenai County John Patrick Luster
3/17/2013	RSPN	HENDRICKSO	Plaintiff's Response to Defendant's Motion to Amend Findings of Fact and Conclusions of Law John Patrick Luster
	NOHG	HENDRICKSO	Notice Of Hearing John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 06/26/2013 01:30 PM) Kootenai County John Patrick Luster
3/20/2013	NOHG	HENDRICKSO	Notice Of Hearing re: Motion to Continue John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Continue 06/26/2013 01:30 PM) John Patrick Luster
	MOTN	HENDRICKSO	Motion to Continue Hearing on Plaintiff's Motion for Reconsideration John Patrick Luster
3/24/2013	REPL	HENDRICKSO	Plaintiff's Reply in Support of Her Motion for Reconsideration of Trial Decision John Patrick Luster
	OBJC	HENDRICKSO	Plaintiff's Objection to Defendant's Motion to Continue Hearing on Plaintiff's Motion for Reconsideration John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Reply to Support Her Motion for Reconsideration of Trial Decision John Patrick Luster
3/26/2013	DCHH	HENDRICKSO	Hearing result for Motion to Continue scheduled on 06/26/2013 01:30 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
3/26/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 06/26/2013 01:30 PM: District Court Hearing Held Court Reporter: Valerie Nunemacher Number of Transcript Pages for this hearing estimated: Kootenai County John Patrick Luster
	DENY	HENDRICKSO	Hearing result for Motion scheduled on 06/26/2013 01:30 PM: Motion to Reconsider on the Accounting Denied Kootenai County John Patrick Luster
3/3/2013	NOHG	HENDRICKSO	Notice of Hearing re: Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants John Patrick Luster
3/14/2013	MOTN	HENDRICKSO	Motion to Intervene and for Stay John Patrick Luster
	APER	HENDRICKSO	Other party: Thornton, John F Appearance Valerie Thornton John Patrick Luster
		HENDRICKSO	Filing: I1 - Initial Appearance by persons other than the plaintiff or petitioner Paid by: Thorton Law Office Receipt number: 0495569 Dated: 8/20/2013 Amount: \$66.00 (Check) For: Thornton, John F (other party) John Patrick Luster
	CINF	HENDRICKSO	Document sent to Judge for review also, no notice of hearing or order To intervene filed at the time of the above motion John Patrick Luster
3/30/2013	MOTN	HENDRICKSO	Plaintiff Mary Pandrea's Motion for Leave to File The Second Amended Complaint and to Add Defendants John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Mary Pandrea in Support of Mary Pandrea's Motion for Leave to File Second Amended Complaint and to Add Defendants John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Motion for Leave to File Second Amended Complaint and to Add Defendants John Patrick Luster
	COMP	HENDRICKSO	Plaintiff Mary Pandrea's Second Amended Complaint and to Add Defendants [PROPOSAL] John Patrick Luster
10/3/2013	HRSC	HENDRICKSO	Hearing Scheduled (Motion 09/27/2013 10:00 AM) Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants John Patrick Luster
10/30/2013	CONT	HENDRICKSO	Hearing result for Motion scheduled on 09/27/2013 10:00 AM: Continued Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants - Per District continued to October 25, 2013 1:00pm John Patrick Luster
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 10/25/2013 01:00 PM) Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County John Patrick Luster
		HENDRICKSO	Notice Of Hearing John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
10/2/2013	MISC	HENDRICKSO	Per email from Kathy (Judge Luster's Clerk) the Plaintiff's Motion to Amend Complaint will be heard on October 18, 2013 at 1:00pm in Kootenai County
	CONT	HENDRICKSO	Continued (Motion 10/18/2013 01:00 PM) All Motion previously scheduled Sept 27 Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
10/3/2013		HENDRICKSO	Notice Of Hearing
10/4/2013	NOHG	HENDRICKSO	Notice of Hearing re" John Thornton's Motion to Intervene
	HRSC	HENDRICKSO	Hearing Scheduled (Motion to Intervene 10/18/2013 01:00 PM) Kootenai County J. Thornton Intervenor
10/15/2013	OBJC	HENDRICKSO	Defendant's Clark's Objectin to Plaintiff's Motion for Leave to File Second Amended Complaint and to Add Additional Defendants
	MISC	HENDRICKSO	Defendant's Kari Clark's Opposition to John F. Thornton's Motion to Intervene and Motion For Stay
10/16/2013	NOTC	HENDRICKSO	Notice of Evidence and Argument
	RSPN	HENDRICKSO	Plaintiff's Response to Defendant's Objection and Reply in Support of Motion for Leave to Amend Complaint and Add Defendant's
10/17/2013		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Mary Pandrea Receipt number: 0498635 Dated: 10/17/2013 Amount: \$3.00 (Check)
10/18/2013	ORDR	HENDRICKSO	Order Denying Plaintiff's Re-Filed Motion to Reconsider
	DCHH	HENDRICKSO	Hearing result for Motion to Intervene scheduled on 10/18/2013 01:00 PM: District Court Hearing Held Court Reporter: Veare Number of Transcript Pages for this hearing estimated: Kootenai County J. Thornton Intervenor
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 10/18/2013 01:00 PM: District Court Hearing Held Court Reporter: Kari Veare Number of Transcript Pages for this hearing estimated: All Motion previously scheduled Sept 27 Plaintiff's Motion for Leave to file Second Amended Complaint and to Add Defendants Kootenai County
1/20/2013	NOHG	HENDRICKSO	Notice Of Hearing re: John Thornton's Motion to Intervene

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
11/20/2013	HRSC	HENDRICKSO	Hearing Scheduled (Motion 12/06/2013 01:30 PM) J. Thornton's Motion to Intervene
11/27/2013	DEOP	OPPELT	Decision On Plaintiff's Motion to Amend
12/3/2013	NOTC	HENDRICKSO	Notice of Unavailability - Attorney V. Thornton
12/6/2013	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 12/06/2013 01:30 PM: District Court Hearing Held Court Reporter: Anita Self Number of Transcript Pages for this hearing estimated: J. Thornton's Motion to Intervene Kootenai County
	DENY	HENDRICKSO	Hearing result for Motion scheduled on 12/06/2013 01:30 PM: Motion Denied J. Thornton's Motion to Intervene Kootenai County
12/27/2013	MOTN	KRAMES	Motion For Entry Of Final Judgment
	NOHG	KRAMES	Notice Of Hearing Motion for Entry of Final Judgment
	HRSC	KRAMES	Hearing Scheduled (Motion 01/03/2014 01:30 PM) Defendant/Counter-Claimant's Motion for Entry Of Final Judgment
1/3/2014	OBJC	HENDRICKSO	Objection to Clark's Motion for Entry of Final Judgment
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/03/2014 01:30 PM: District Court Hearing Held Court Reporter: Julie Foland Number of Transcript Pages for this hearing estimated: under 100 pages Defendant/Counter-Claimant's Motion for Entry Of Final Judgment
	HRSC	HENDRICKSO	Hearing Scheduled (Motion 01/17/2014 01:30 PM) for Entry of Judgment Kootenai County
		HENDRICKSO	Notice Of Hearing
	OBJC	HENDRICKSO	Objection to Judgment Motion for Hearing or For Findings of Facts and Conclusions of Law
1/6/2014	OBJC	HENDRICKSO	Objection to Clark's Motion for Entry of Final Judgment
1/13/2014	MEMO	BOWERS	Pre-Hearing Memorandum in Support of Plaintiff's Position Regarding Entry of Final Judgment
1/16/2014	MISC	HENDRICKSO	Declaration of John Marquette
1/17/2014	ORDR	HENDRICKSO	Order Denying John F. Thornton's Motion to Intervene and Motion for Stay

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
1/17/2014	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 01/17/2014 01:30 PM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: for Entry of Judgment Kootenai County John Patrick Luster
1/21/2014	MISC	HENDRICKSO	Coversheet Pandrea's Proposed Judgment and Decree of Partition (1) & (2) John Patrick Luster
	CINF	HENDRICKSO	Documents emailed to Judge Luster Declaration of John Marquette CoverSheet Pandrea's Proposed Judgment and Decree of Partation (1) & (2) Revised Proposed Judgment and Decree of Partition (Judgment in JO's pending basket) John Patrick Luster
1/24/2014	JDMT	HENDRICKSO	Revised Judgment and Decree of Partition 7 pgs John Patrick Luster
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Thornton, John F, Other Party; Pandrea, Mary E., Plaintiff. Filing date: 1/24/2014 John Patrick Luster
1/28/2014		HENDRICKSO	Miscellaneous Payment: Fax Fee Paid by: Jason M. Grey Receipt number: 0001315 Dated: 1/28/2014 Amount: \$9.00 (Credit card) John Patrick Luster
		HENDRICKSO	Miscellaneous Payment: Technology Cost - CC Paid by: Jason M. Grey Receipt number: 0001315 Dated: 1/28/2014 Amount: \$3.00 (Credit card) John Patrick Luster
2/7/2014	MOTN	HENDRICKSO	Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Mary E. Pandrea in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification John Patrick Luster
	AFFD	HENDRICKSO	Affidavit of Debbie A. Gadbow in Support of Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification John Patrick Luster
	MOTN	HENDRICKSO	Plaintiff's Motion for Attortney Fees and Costs John Patrick Luster
	MEMO	HENDRICKSO	Plaintiff's Memorandum of Costs and Attorney Fees John Patrick Luster
	MEMO	HENDRICKSO	Memorandum in Support of Plaintiff's Motion for Attorney Fees and Costs John Patrick Luster
	AFFD	HENDRICKSO	Pandrea's Affidavit for Costs and Attorney Fees John Patrick Luster
	MEMO	HENDRICKSO	Plaintiff's Memorandum in Support of Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification John Patrick Luster
	CINF	HENDRICKSO	No Notice of Hearing filed with the above motions John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
2/21/2014	MOTN	BOWERS	Defendant's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
	MEMO	BOWERS	Defendant's Memorandum in Support of Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
2/24/2014		KRAMES	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0002884 Dated: 2/24/2014 Amount: \$7.00 (Check) John Patrick Luster
		KRAMES	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Terri Boyd-Davis Receipt number: 0002884 Dated: 2/24/2014 Amount: \$1.00 (Check) John Patrick Luster
2/26/2014	NOHG	KRAMES	Notice Of Hearing Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea (faxed to Judge Luster) John Patrick Luster
	HRSC	KRAMES	Hearing Scheduled (Motion 03/14/2014 10:30 AM) Def's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
3/7/2014		HUMRICH	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Thornton, John F (other party) Receipt number: 0003759 Dated: 3/7/2014 Amount: \$109.00 (Credit card) For: Thornton, John F (other party) John Patrick Luster
		HUMRICH	Filing: Technology Cost - CC Paid by: Thornton, John F (other party) Receipt number: 0003759 Dated: 3/7/2014 Amount: \$3.00 (Credit card) For: Thornton, John F (other party) John Patrick Luster
	BNDC	HUMRICH	Bond Posted - Cash (Receipt 3763 Dated 3/7/2014 for 300.00) John Patrick Luster
	RSPN	KRAMES	Plaintiff's Response To Defendant's Motion To Disallow Attorney Fees And Costs To Pandrea John Patrick Luster
	CHJG	HUMRICH	Change Assigned Judge Idaho Supreme Court
	NOTA	HUMRICH	NOTICE OF APPEAL John Patrick Luster
	APSC	HUMRICH	Appealed To The Supreme Court John Patrick Luster
3/10/2014	CINF	HENDRICKSO	3-10-14 1:47pm Talked with Kathy (Judge Luster's chambers) she stated that the clerk the did the hearing for this order (dated Jan 17th, 2014) just put it in the file and did not fax it to us. She said that she would speak to her supervisor re: the matter of not faxing us the copy to class - order dated 01-17-2014 - Order Denying John F. Thornton's Motion to Intervene and Motion for Stay John Patrick Luster
3/13/2014	NOHG	HENDRICKSO	Notice of Hearing re: Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
11/13/2014	HRSC	HENDRICKSO	Hearing Scheduled (Motion 05/02/2014 08:00 AM) Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster
11/14/2014	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 03/14/2014 10:30 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Def's Motion to Disallow Attorneys Fees and Costs to Plaintiff Mary E. Pandrea John Patrick Luster
11/21/2014	CCOA	HUMRICH	Clerk's Certificate Of Appeal Idaho Supreme Court
11/24/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER CONDITIONALLY DISMISSING APPEAL" Idaho Supreme Court
11/10/2014	MISC	HUMRICH	Filed Objection to Dismissal of Appeal; rec'd via email from ISC Idaho Supreme Court
11/15/2014	CINF	ADLER	Clerk Information-appeal currently suspended Idaho Supreme Court
	AFFD	HENDRICKSO	Affidavit of Pandrea in Support of Motion for Reconsideration of Final Judgment and Decree of Partition Idaho Supreme Court
11/23/2014	CINF	HUMRICH	Clerk Information - Appeal currently suspended; pending Order from Court Idaho Supreme Court
11/25/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER DISMISSING APPEAL" Idaho Supreme Court
	CHJG	HUMRICH	Change Assigned Judge John Patrick Luster
	RSPN	HENDRICKSO	Defendant Clark's Response to Plaintiff's Motion for Reconsideration John Patrick Luster
11/29/2014	DEOP	OPPELT	Decision on Plaintiff's Motion for Fees and Costs (8 Pages) John Patrick Luster
11/30/2014	REPL	HENDRICKSO	Plaintiff's Reply to Defendant's Response to Plaintiff's Motion for Reconsideration of Final Judgment and Decree of Partition and Clarification and Objection to Facts Not on Record Included in Clark's Supporting Memorandum John Patrick Luster
11/2/2014	CINF	HENDRICKSO	Judge Luster is keeping the file. File under advisement John Patrick Luster
	DCHH	HENDRICKSO	Hearing result for Motion scheduled on 05/02/2014 08:00 AM: District Court Hearing Held Court Reporter: Keri Veare Number of Transcript Pages for this hearing estimated: Plaintiff's Motion for Reconsideration of the Judgment and Decree of Partition John Patrick Luster
11/6/2014		HUMRICH	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Thornton, John F Receipt number: 0007391 Dated: 5/6/2014 Amount: \$10.00 (Cash) John Patrick Luster

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
5/6/2014		HUMRICH	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Thornton, John F Receipt number: 0007391 Dated: 5/6/2014 Amount: \$1.00 (Cash)
5/8/2014	MISC	HENDRICKSO	Augmented Exhibit from Hearing Dated May 2, 2014 for Pandrea's Motion for Reconsideration of the Final Judgment and Decree of Partition Filed February 7, 2014
5/9/2014	LETT	HENDRICKSO	Letter from Mary E. Pandrea to The Honorable John P. Luster Dated May 9, 2014
5/15/2014	OBJC	BOWERS	Defendant's Objection to Consideration of Plaintiff's Post-Hearing Filings
5/22/2014	REMT	HUMRICH	Remittitur (copy faxed to Judge Luster)
5/29/2014	RSPN	KRAMES	Plaintiff Mary Pandrea's Response To Clark's Objection To Exhibit And Request For Judicial Notice
5/30/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ACKNOWLEDGMENT OF RECEIPT: REMITTITUR"
	REMT	HUMRICH	Remittitur
	BNDE	HUMRICH	Cash Bond Exonerated (Amount 300.00)
5/3/2014	MISC	HENDRICKSO	Decision on Plaintiff's Motion for Reconsideration
5/6/2014		TAYLOR	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Terri Boyd-Davis Receipt number: 0009389 Dated: 6/6/2014 Amount: \$9.00 (Cash)
5/8/2014	MOTN	HUMRICH	Motion and Affidavit for Fee Waiver (faxed to Judge Luster)
5/14/2014	ORDR	HUMRICH	Order Re: Fee Waiver
	NOTA	HUMRICH	NOTICE OF APPEAL
	APSC	HUMRICH	Appealed To The Supreme Court
5/16/2014		HUMRICH	Filing: L4 - Appeal, Civil appeal or cross-appeal to Supreme Court Paid by: Pandrea, Mary E. (plaintiff) Receipt number: 0011695 Dated: 7/16/2014 Amount: \$.00 (Cash) For: Pandrea, Mary E. (plaintiff)
5/23/2014	MISC	HUMRICH	Clerk's Records due 10/29/2014
5/24/2014	SCDF	HUMRICH	Supreme Court Document Filed- "ORDER CONDITIONALLY DISMISSING APPEAL FOR A FINAL JUDGMENT"
	MISC	HUMRICH	ISC Docket #42333-2014
	REQU	HUMRICH	Respondent's Request for Additional Transcript

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
7/29/2014	CINF	HUMRICH	Clerk Information - faxed to Judge Luster; Order Conditionally Dismissing Appeal for a Final Judgment and Respondent's Request for Additional Transcript
8/12/2014	JDMT	HENDRICKSO	Judgment (6 pgs)
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Pandrea, Mary E., Plaintiff. Filing date: 8/12/2014
8/27/2014	MISC	HUMRICH	Clerk's Records due 12/2/2014
8/28/2014	CCOA	HUMRICH	Clerk's Certificate Of Appeal
		HENDRICKSO	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Val Thornotn Receipt number: 0014028 Dated: 8/28/2014 Amount: \$10.00 (Cash)
		HENDRICKSO	Miscellaneous Payment: For Certifying The Same Additional Fee For Certificate And Seal Paid by: Val Thornotn Receipt number: 0014028 Dated: 8/28/2014 Amount: \$1.00 (Cash)
9/2/2014	SCDF	HUMRICH	Supreme Court Document Filed- "SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT"
9/9/2014	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14714 Dated 9/9/2014 for 687.90)
	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14716 Dated 9/9/2014 for 215.00)
	BNDC	BRACKETT	Bond Posted - Cash (Receipt 14718 Dated 9/9/2014 for 516.75)
9/11/2014	JDMT	HENDRICKSO	Amended Judgment
	CDIS	HENDRICKSO	Civil Disposition entered for: Clark, Kari, Defendant; Pandrea, Mary E., Plaintiff. Filing date: 9/11/2014
9/15/2014	SCDF	HUMRICH	Supreme Court Document Filed- "RESPONSE TO SECOND ORDER CONDITIONALLY DISMISSING APPEAL RE: FINAL JUDGMENT" (Filed by M. Pandrea) - rec'd via email from ISC
9/17/2014	CINF	HUMRICH	Amended Judgment filed 9/11/2014 certified and emailed to ISC; per request
9/22/2014	JDMT	HUMRICH	Amended Judgment filed with Supreme Court
10/9/2014	SCDF	HUMRICH	Supreme Court Document Filed- "Order to Reinstate Appellate Proceedings"
10/10/2014	MISC	HUMRICH	Statement dated 9/26/2014 from Julie K. Foland for transcripts \$613.15
	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Julie K. Foland - Court Trial Day One 6/12/2012 and Court Trial Day Two 6/13/2012

Mary E. Pandrea vs. Kari Clark

Date	Code	User	Judge
10/10/2014	TRAN	HUMRICH	Transcript Filed by Julie K. Foland - Court Trial Day 1 on 6/12/2012 and Court Trial Day 2 on 6/13/2012 John Patrick Luster
10/16/2014	BNDV	HUMRICH	Bond Converted (Transaction number 1489 dated 10/16/2014 amount 613.15) John Patrick Luster
10/29/2014	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Keri Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014 John Patrick Luster
	MISC	HUMRICH	Invoice for transcripts from Keri J. Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014; \$503.75 John Patrick Luster
	TRAN	HUMRICH	Transcript Filed by Keri J. Veare - Motion to Clarify on 1/14/2013, Order Denying Plaintiff's Motion 10/18/2013 and Entry of Judgment on 1/17/2014 John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1575 dated 10/29/2014 amount 503.75) John Patrick Luster
	BNDE	HUMRICH	Cash Bond Exonerated (Amount 13.00) John Patrick Luster
11/3/2014	NLT	HUMRICH	Notice Of Lodging Transcript On Appeal by Valerie Nunemacher - Motion to Reconsider on 6/26/2013 John Patrick Luster
	TRAN	HUMRICH	Transcript Filed by Valerie Nunemacher - Motion to Reconsider on 6/26/2013 John Patrick Luster
	MISC	HUMRICH	Invoice dated 10/31/2014 from Valerie Nunemacher for transcript of Motion to Reconsider on 6/26/2013 - \$250.25 John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1585 dated 11/3/2014 amount 215.00) John Patrick Luster
	BNDV	HUMRICH	Bond Converted (Transaction number 1586 dated 11/3/2014 amount 35.25) John Patrick Luster

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 8 Attorney for the Defendant

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

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 CLERK DISTRICT COURT
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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,)

Plaintiff,)

CASE NO. CV-11-835

vs.)

DEFENDANT'S TRIAL BRIEF

KARI A. CLARK, a single woman)
 individual and as Trustee of the Kari A.)
 Clark Trust u/a Dated June 21, 2010;)

Defendant.)

KARI A. CLARK, a single woman)
 individual and as Trustee of the Kari A.)
 Clark and Mary A. Pandrea Revocable Trust,))
 u/a April 9, 2002 and Dated June 21, 2010))
 and as Trustee of the Kari A.)
 Clark Trust u/a Dated June 21, 2010,)

Counterclaimant,)

vs.)

MARY E. PANDREA, a single woman))
 individually and as Trustee of the Kari A.)
 Clark and Mary A. Pandrea Revocable Trust,))
 u/a April 9, 2002)

COMES NOW the Defendant KARI A. CLARK and respectfully submits her Trial

Brief for the Court's consideration.

INTRODUCTION

DEFENDANT'S TRIAL BRIEF - 1

0238

1 This is a lawsuit filed by one sister against another sister for the partition of two
2 parcels of real property situated in Bonner County, Idaho. For ease of reference, the
3 properties will be identified and referred to as "Parcel 1" and "Parcel 2" as they were
4 designated by the Plaintiff in her Amended Complaint. Both parcels had been part of the
5 holdings of a trust created by the parties' parents, Harry F. Clark and Edith E. Clark,
6 called the 'Harry F. and Edith E. Clark Trust.'

8 Parcel 1. Parcel 1 is about 5.3 acres and contains all of the significant structures; a
9 log cabin, an old shop and an old barn. Parcel 1 has river frontage on the Pack River and
10 also consists of pasture land and forested areas, which are designated as a portion of a tree
11 farm. Plaintiff Mary E. Pandrea purchased Parcel 1 from the Harry F. and Edith E. Clark
12 Trust in 1981. Parcel 1 has always retained its independent legal description. Parcel 1 is
13 visually identified in orange on the survey map attached as Appendix 1 to this brief. The
14 legal description for Parcel 1 as it was appended to the Plaintiff's Amended Complaint is
15 attached as Appendix 2 to this brief.

17 Parcel 2. Parcel 2 is about 15 acres and is comprised of some pasture land fronting
18 on the Pack River and steep forested terrain. Parcel 2 has no structures and it comprises
19 the other portion of the tree farm. Defendant Kari A. Clark purchased Parcel 2 from the
20 Harry F. and Edith E. Clark Trust in 1991. Parcel 2 has also always retained its separate
21 legal description. Parcel 2 is identified in green on the survey map attached as Appendix 2
22 to this brief. The legal description for Parcel 2 as it was appended to the Plaintiff's
23 Amended Complaint is attached as Appendix 3 to this brief.

25 Both parcels involved in this litigation were part of a much larger property
26 acquired by the parties' parents in about 1945 and were conveyed by their parents into the
27 Harry F. and Edith E. Clark Trust.
28

DEFENDANT'S TRIAL BRIEF - 2

1 Prior to his death in 1975, Harry and his wife had conveyed parcels of his property
2 to their children. Since then, some of Harry and Edith's children have purchased other
3 portions of the larger property from their parents' trust. Plaintiff, Mary E. Pandrea and
4 Defendant Kari A. Clark are two of those children.

5
6 Parcel 1 is regarded by both litigants as their family's historical home. The
7 litigants' Father, Harry Clark is buried on a small plot of land located on a bluff over
8 looking the Pack River valley. The family maintains a headstone for Edith on that same
9 site. The grave site is bordered on three sides by Parcel 2.

10 CONVEYANCING HISTORY

11 Conveyances of Parcel 1. Plaintiff, Mary E. Pandrea, alleges that she purchased
12 Parcel 1 from her parents' Trust by warranty deed dated February 13, 1980. That deed
13 purports to be recorded as Bonner County Instrument No. 226223. A series of
14 conveyances followed, none of which modified or altered the unique legal description of
15 Parcel 1. It is expected that the Parcel 1 conveyances relevant to this action will be proven
16 to be as follows:

17
18 1. By quitclaim deed dated February 16, 1981 the Plaintiff, Mary E. Pandrea,
19 conveyed an undivided one-half interest in Parcel 1 to Defendant Kari A. Clark.
20
21 2. By warranty deed dated April 9, 2002 and recorded as Bonner County
22 Instrument 600365 Mary E. Pandrea and Kari A. Clark conveyed their interests in Parcel 1
23 to a revocable trust called the 'Kari A. Clark and Mary E. Pandrea Revocable Trust'
24 (Clark-Pandrea Trust) which they created on that same date.

25 3. On June 21, 2010, pursuant to the requirements of the Clark-Pandrea Trust,
26 Defendant Kari A. Clark executed a quitclaim deed conveying to Mary E. Pandrea and to
27 Kari A. Clark each an undivided one-half interest in Parcel 1. That deed was recorded as
28

1 Bonner County Instrument No. 795213.

2 Conveyances of Parcel 2. Defendant, Kari A. Clark purchased Parcel 2 from her
3 parent's trust by warranty deed dated August 29, 1991 and recorded as Bonner County
4 Instrument Number 396781. Like Parcel 1, a series of conveyances regarding Parcel 2
5 followed, none of which modified or altered the unique legal description of Parcel 2. It is
6 expected that the Parcel 2 conveyances relevant to this action will be proven to be as
7 follows:
8

9 1. By quitclaim deed dated November 10, 1992 and recorded as Bonner County
10 Instrument Number 416380, Defendant Kari A. Clark conveyed an undivided one-half
11 interest in Parcel 2 to Plaintiff, Mary E. Pandrea.

12 2. By warranty deed dated April 9, 2002 and recorded as Bonner County
13 Instrument 600364 Mary E. Pandrea and Kari A. Clark conveyed their interests in Parcel 2
14 to the Clark-Pandrea Trust which they created the same day.

15 3. On June 21, 2010, Defendant Kari A. Clark, as Trustee of the Clark-Pandrea
16 Trust, executed a quitclaim deed conveying Parcel 2 to Kari A. Clark. That deed was
17 recorded as Bonner County Instrument No. 795212.

18 4. On July 19, 2011, Defendant Kari A. Clark, as Trustee of the Clark-Pandrea
19 Trust, executed a corrective deed conveying to Mary E. Pandrea an undivided one-half
20 interest in Parcel 2 and to Kari A. Clark an undivided one-half interest in Parcel 2. That
21 deed was recorded as Bonner County Instrument No. 813590.

22
23
24 PRESENT STATE OF TITLE

25 The Defendant contends that the present state of title to Parcels 1 and 2 is as
26 follows:

27 Parcel 1. Parcel 1 remains a uniquely described parcel of land with Plaintiff Mary
28

1 E. Pandrea owning an undivided one-half interest and Defendant Kari A. Clark owning an
2 undivided one-half interest in that parcel.

3 Parcel 2. Parcel 2 remains a uniquely described parcel of land with Plaintiff Mary
4 E. Pandrea owning an undivided one-half interest and Defendant Kari A. Clark owning an
5 undivided one-half interest in that parcel.
6

7 APPLICABLE STATUTORY PROVISIONS

8 Actions for the partition of real estate are governed by the provisions of Idaho
9 Code §§ 6-501 et seq.

10 Idaho Code § 6-501 provides the circumstances under which a partition of real
11 property may be had and defines the narrow circumstance under which a partition may be
12 made by sale:
13

14 "When several cotenants hold and are in possession of real
15 property as parceners, joint tenants or tenants in common, in
16 which one (1) or more of them have an estate of inheritance,
17 or for life or lives, or for years, an action may be brought by
18 one (1) or more of such persons for a partition thereof,
19 according to the respective rights of the persons interested
20 therein, and for a sale of such property, or a part thereof, if it
21 appears that a partition cannot be made without great
22 prejudice to the owners."

23 Idaho Code § 6-512 reinforces the requirement that a partition by sale be ordered
24 only if the Court finds from the evidence that the property is so situated that a physical
25 partition cannot be made without great prejudice to the owners:
26

27 "If it be alleged in the complaint and established by
28 evidence, or if it appear by the evidence without such
allegation in the complaint, to the satisfaction of the court,
that the property, or any part of it, is so situated that partition
cannot be made without great prejudice to the owners, the
court may order a sale thereof. Otherwise, upon the requisite
proofs being made, it must order a partition according to the
respective rights of the parties as ascertained by the court,
and appoint three (3) referees therefor; and must designate
the portion to remain undivided for the owners whose

1 interests remain unknown, or are not ascertained."

2 If the Court determines that a partition is proper, the Court is to appoint three
3 referees who are to accomplish the partition according to the rights of the parties as
4 determined by the Court.
5

6 Idaho Code § 6-513 defines the duties of the referees in making the partition:

7 In making the partition the referees must divide the property
8 and allot the several portions thereof to the respective
9 parties, quality and quantity relatively considered, according
10 to the respective rights of the parties as determined by the
11 court, pursuant to the provisions of this chapter, designating
12 the several portions by proper landmarks, and may employ a
13 surveyor with the necessary assistants to aid them.

14 Idaho Code § 6-515 provides the procedure for the Court to confirm, change,
15 modify, or set aside the referees' report:
16

17 The court may confirm, change, modify or set aside the
18 report, and if necessary appoint new referees. Upon the
19 report being confirmed, judgment must be rendered that
20 such partition be effectual forever, which judgment is
21 binding and conclusive:
22

23 1. On all persons named as parties to the action, and their
24 legal representatives, who have at the time any interest in the
25 property divided, or any part thereof, as owners in fee or as
26 tenants for life or for years, or as entitled to the reversion,
27 remainder, or the inheritance of such property, or of any part
28 thereof, after the determination of a particular estate therein,
and who by any contingency may be entitled to a beneficial
interest in the property, or who have an interest in any
undivided share thereof, as tenants for years or for life.

2. On all persons interested in the property, who may be
unknown, to whom notice has been given of the action for
partition by publication.

3. On all other persons claiming from such parties or
persons or either of them. And no judgment is invalidated by
reason of the death of any party before final judgment or
decree; but such judgment or decree is as conclusive against
the heirs, legal representatives or assigns of such decedent as
if it had been entered before his death.

1 A series of events occurred in May 2012 which may complicate the issue of a
2 partition. On May 9, 2012, Plaintiff Mary E. Pandrea's son, John Pandrea, in obvious
3 collusion with the Plaintiff, executed what purports to be a materialman's lien asserting an
4 entitlement to the payment of \$84,750.00 for labor and materials he claims were expended
5 improving real property involved in this partition action at the request of the Plaintiff,
6 Mary E. Pandrea. John Pandrea's claim of lien was recorded on May 14, 2012 as Bonner
7 County Instrument Number 826137. Because John Pandrea is not a licensed contractor in
8 the State of Idaho he is statutorily precluded by Idaho Code § 54-5208 from asserting a
9 materialman's lien under the authority of Idaho Code § 45-501:

11 "A contractor who is not registered as set forth in this
12 chapter, unless otherwise exempt, shall be denied and shall
13 be deemed to have conclusively waived any right to place a
14 lien upon real property as provided for in chapter 5, title 45,
Idaho Code..."

15 Idaho Code § 54-5208. The Plaintiff and her son have attempted to circumvent that
16 disqualification by an exemption to contractor registration provided by Idaho Code § 54-
17 5205(p), which permits an unregistered contractor to work on his own residence, if that
18 residence is owned by a person other than the resident. In the furtherance of that
19 argument, on or about May 9, 2012 the Plaintiff signed a Declaration stating that her son,
20 John Pandrea, has been entitled to reside in the cabin located on Parcel 1 since July 2004
21 when they claim the Plaintiff, Mary E. Pandrea, authorized him to restore and renovate her
22 cabin.
23

24 On May 22, 2012, the Plaintiff, Mary E. Pandrea, recorded a Declaration of
25 Homestead on Parcels 1 and 2 and the next day, May 23, 2012, a judgment creditor
26 holding an unrelated judgment for \$227,425.00 against the Plaintiff recorded its judgment
27 in Bonner County, which may serve as a lien against the Plaintiff's interest in both parcels.
28

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1 It is the Defendant's understanding that the Plaintiff intends to appeal that judgment.

2 It is expected that the Plaintiff will introduce evidence at trial of the value of the
3 property which she seeks to have partitioned. It is expected that the Plaintiff's appraiser
4 will testify that the aggregate value of Parcels 1 and 2 is \$100,000.00. It is expected, in
5 addition, that the Plaintiff will assert an entitlement to reimbursement in the amount of
6 \$36,890.44 for expenses she claims to have incurred paying taxes on and improving Parcel
7 1 of, the real property since 1992. Given the anticipated testimony of the Plaintiff's
8 appraiser, were the property ordered to be disposed of by a partition by sale, under the
9 prioritization for disbursement of the proceeds of the sale required by Idaho Code § 6-520,
10 the Defendant, Kari A. Clark could recover nothing from a sale, even though she was
11 never consulted about, nor consented to the unfinished renovations the Plaintiff and her
12 son undertook with regard to the cabin located on Parcel 1. Those same expenses are
13 almost certainly included within the amount of the Plaintiff's son's May 9, 2012
14 construction lien, but given the timing of that lien, it is not known or knowable to the
15 Defendant at this time what expenses it purports to cover.

16 The prioritization of payments required by Idaho Code § 6-520 from the proceeds
17 of a partition by sale were a sale to be ordered would be as follows:

18 "The proceeds of the sale of encumbered property must be
19 applied under the direction of the court as follows:

- 20 1. To pay its just proportion of the general costs of the
21 action.
- 22 2. To pay the costs of the reference.
- 23 3. To satisfy and cancel of record the several liens in their
24 order of priority, by payment of the sums due and to become
25 due; the amount due to be verified by affidavit at the time of
26 payment.
- 27 4. The residue among the owners of the property sold,
- 28

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1 according to their respective shares therein."

2 It is also uncertain as to when the validity of the Plaintiff's son's claim of lien
3 could be adjudicated. Idaho Code § 6-510 provides for a determination of lienholder rights
4 in a partition action, but only if it appears to the Court that the liens existed and were of
5 record at the time the action was commenced. With the Plaintiff's son's construction lien
6 and the judgment lien against the Plaintiff both being recorded less than three weeks prior
7 to the trial of this matter, it is difficult to balance those into the equity equation, especially
8 since when combined they exceed three times the gross value of the property at issue.
9

10 Idaho Code § 6-504 requires that the Plaintiff in a partition action immediately
11 record a *lis pendens* covering the real property subject to the complaint for partition in the
12 county in which the property is situated, and provides that from and after recording the *lis*
13 *pendens* will serve as notice of the action to all persons, but the statute does not address
14 the issue of a materialman's lien recorded after the commencement of the partition action
15 for work allegedly performed, in this case, years prior to the commencement of the action,
16 nor the lien of a judgment creditor recorded less than a week prior to trial.
17

18 BONNER COUNTY LAND USE ORDINANCES

19 Bonner County has adopted land use regulations which govern the subdivision of
20 land, but Bonner County's subdivision regulations do not apply to this partition action.
21 The applicable Bonner County Code section is §12-610(b). Bonner County Code §12-610
22 defines the applicability of the county's subdivision regulations:
23

24 12-610: Applicability, Qualifications:

25 A. The provisions of this chapter shall apply to
26 "subdivisions", as defined in section 12-611 of this
27 subchapter, lot line adjustments as set forth at section
28 12-660 of this chapter, and all other permits authorized by
this chapter.

1 B. Parcels or lots created in conformance with the provisions
2 of this title which are uniquely described on any recorded
3 plat or other legal instrument of conveyance as of the
4 effective date hereof shall retain individual status and
5 eligibility for sale, lease, financing, gift, building,
6 construction or other transfer of ownership, as so described.

7 C. Land which is uniquely described on any recorded plat or
8 other legal instrument of conveyance as one lot or parcel
9 shall be considered one lot or parcel, even if there are roads,
10 streets, road easements or rights of way, or railroad
11 easements or rights of way, within or through the lot or
12 parcel. (Ord. 501, 11-18-2008)

13 The applicable section is 12-610(b). It is expected that the Plaintiff will attempt to allege
14 that the Bonner County Assessor's office has issued only one tax number for the two
15 parcels subject to her complaint for partition. The combination for convenience of two
16 separate parcels into one tax number has no legal consequence regarding a judicial
17 partition. Rather, the inquiry is whether the parcels to be partitioned remained uniquely
18 described. In this case, even though the two parcels were commonly owned, they were
19 never combined into a single deed. Rather, each parcel has always remained identified
20 separate from the other through its own unique legal description, a fact and conclusion
21 reinforced by the two separate and distinct legal descriptions for each separate parcel,
22 albeit commonly owned by the parties, referenced in and appended to, the Plaintiff's
23 Amended Complaint for Partition filed in this matter.

24 CASE LAW

25 1. Partition in Kind v. Forced Sale.

26 'The power to convert real estate into money against the will
27 of the owner, is an extraordinary and dangerous power, and
28 ought never to be exercised unless the necessity therefor is
clearly established.' Vesper v. Farnsworth, 40 Wis. 357.

29 Williamson Inv. Co. v. Williamson, 96 Wash. 529, 165 P. 385 (Wash. 1917). Idaho's
30 appellate courts have not had much opportunity to construe the language of Idaho Code §

1 6-501 et seq. in the context of deciding between a physical partition and a partition by
2 sale. The single Idaho case pertaining to the application of Idaho Code § 6-512 is the case
3 of Cox v. Cox, which is cited at 138 Idaho 881, 885, 71 P.3d 1028 (Idaho 2003).

4 The Cox case has some similarities to this matter, but also some critical
5 distinctions. In the Cox case one sibling purchased real property and then deeded an
6 undivided one-half interest to his sister. For a time both siblings resided in the residence
7 (which curiously was also located in the Pack River area). When the sibling relationship
8 broke down, the brother advised the sister that she needed to find other living
9 arrangements and the sister moved out. An action involving the sister's claim for partition
10 ensued.
11

12 The trial court in Cox found that the siblings were co-tenants in the residence and
13 ordered that the property be partitioned by sale. The Cox court's recitation of the
14 controlling legal principles was limited to two simple sentences:
15

16 "A co-tenant may bring an action to partition real property.
17 Idaho Code § 6-501 (2002). The district court may order a
18 sale of the property if a partition cannot be made without
great prejudice. I.C. § 6-512."

19 Cox, supra. 138 Idaho at 886. The Cox court did not discuss the legal standards to be
20 applied in determining whether or not great prejudice would exist by reason of a physical
21 partition, but it did state that trial court's rationale, which it affirmed:

22 "The district court determined partitioning the Pack River
23 house would result in great prejudice because the property
24 includes one house and one barn, preventing an equal
25 division of the property. The district court also stated zoning
26 laws very likely prohibited division of the property. As a
27 result, the district court ordered the Pack River house to be
28 sold by listing with a licensed real estate broker. Charles
argues, relying on I.C. §§ 6-524 and 6-525, the Pack River
house should be sold at auction and he should be allowed to
credit his contributions to acquiring the Pack River house to
purchase of the house at auction. However, I.C. §§ 6-524

1 and 6-525 are inapplicable to this case because they pertain
2 to situations where the district court appoints referees to
3 assist in the actual partition of property, which the district
4 court has not done in this case. I.C. § 6-512. Therefore, the
district court's judgment requiring listing of the Pack River
house with a broker until sold is affirmed."

5 Cox, supra., 118 Idaho at 886.

6 The basis for the trial court's ruling in Cox was that the property contained one
7 house and one barn, and that for that reason a physical partition could not be done without
8 great prejudice.

9
10 The trial court in Cox also stated that Bonner County zoning laws would probably
11 prohibit the physical division of the property.

12 Notably, the trial court in Cox did not order that the property be sold at auction.
13 Rather, the trial court ordered that the property be listed with a broker until sold. The trial
14 court's order that the property be sold by listing it with a broker was affirmed by the Idaho
15 Supreme Court for the reason that because the trial court had not appointed referees to
16 assist in the partition, the provisions of Idaho Code §§ 6-524 and 6-525 did not apply.

17
18 The facts of the Cox case are different from those of this case in several critical
19 respects. First, this case involves two separate and distinct parcels of real property, one
20 parcel of which had been purchased by the Plaintiff as her sole and separate property, and
21 the other parcel of which was separately acquired by the Defendant as her sole and
22 separate property. Over time, each co-tenant conveyed an undivided one-half interest in
23 that tenant's separate parcel to the other, but the properties remain two uniquely described
24 parcels.

25
26 Second, because each parcel has retained its unique and separate legal description,
27 which pre-date section 12-610(b) of the Bonner County Code, which was enacted in 2008,
28 that code section expressly permits any conveyance or transfer of ownership of each of the

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1 parcels as it is presently described. The effect of those two distinct facts is that this Court
2 can partition Parcel 1 and Parcel 2 by simply ordering that each parcel be returned to the
3 individual ownership of the sister that acquired it in the first place.

4 A physical partition returning Parcel 1 to the Plaintiff and returning Parcel 2 to the
5 Defendant has other manifest advantages. The Plaintiff alleges that she has expended
6 significant sums of money improving her cabin on Parcel 1. She seeks a disproportionate
7 distribution from her requested sale of the parcels to reimburse her for those expenditures.
8 It is expected that the mutual testimony at trial will be that the vast majority of the
9 Plaintiff's expenditures were made for improvements located entirely on Parcel 1. It is
10 important to remember that from 2002 through 2010 the parcels were owned by the Clark-
11 Pandrea Trust and the terms of that trust would seem properly to control any claims for
12 contribution and reimbursement between the trustees of the trust for those years.
13 Regardless however, a physical partition awarding Parcel 1 to the Plaintiff would logically
14 provide her with any benefit associated with her alleged expenditures and eliminate any
15 concern that great prejudice would result from a physical partition of the parcels as
16 suggested above.

17 Idaho's appellate courts do not appear to have discussed what constitutes 'great
18 prejudice' in the context of deciding between a physical partition of real property and a
19 partition by sale, although the concept of what constitutes 'great prejudice' seems to have
20 been well settled in other jurisdictions by the early years of the 20th Century.

21 The case of Williamson Inv. Co. v. Williamson, cited at 96 Wash. 529, 165 P. 385
22 (Wash. 1917) provides a very clear discussion of the factors that contribute to whether
23 'great prejudice' requires a partition by sale. The Williamson case is appended in its
24 entirety as Appendix 4 to this brief. The Williamson decision was argued to the Idaho

1 Supreme Court in the case of Andrews v. Glover, 66 Idaho 742, 168 P.2d 821 (Idaho
2 1946), but because the Andrews court decided the trial court's findings were insufficient
3 for review and remanded the matter for further findings, the Idaho Supreme Court did not
4 engage in a substantive discussion of 'great prejudice.'

5
6 It seems clear that by the early 20th Century it was a well understood principle that
7 a partition of real estate by sale was strongly disfavored and that a physical partition
8 should be ordered whenever possible.

9 The Washington Supreme Court in Williamson stated the policy behind the strong
10 judicial preference for physical partition in clear terms:

11 "In the original jurisdiction of equity there was no such
12 thing as partition by means of sale, except where all parties
13 were sui juris and consenting. Wanting such capacity and
14 consent, the division was always in kind, and where the land
15 was incapable of exact or fair division, compensation for the
inequality was made by an award of 'owelty of partition.' 4
Pomeroy's Equity Juris. (3d Ed.) §§ 1389, 1390.

16 The practical inconvenience and frequent inadequacy of this
17 method led to the enactment in England, and in nearly all of
18 the states of the Union, of statutes conferring upon the
19 courts power to make partition by sale of the land, when not
20 partible in kind without greater injury than a sale would
21 cause, independently of the consent of the parties. But
22 partition has not lost its original purpose of a division
without changing the existing character of the inheritance.
The courts still, as formerly, favor a division in kind
whenever practicable. 4 Pomeroy's Equity Juris. (3d Ed.) §
1390.

23 'The law favors partition of land among tenants in common,
24 rather than a sale thereof and a division of the proceeds, and
25 it is only when the land itself cannot be partitioned that a
sale may be ordered.' Kloss v. Wylezalek, 207 Ill. 328, 69
N.E. 863, 99 Am. St. Rep. 220.

26 It is still recognized that an owner has the right to retain his
27 inheritance or investment in the form in which he has it, so
28 long as it can be done without great prejudice to his
cotenant.

1
2 'The power to convert real estate into money against the will
3 of the owner, is an extraordinary and dangerous power, and
4 ought never to be exercised unless the necessity therefor is
5 clearly established.' *Vesper v. Farnsworth*, 40 Wis. 357.

6 Nearly all of the state statutes, of which that of this state is
7 typical, therefore, condition the power of the court to order a
8 sale upon a finding from evidence that partition in kind
9 cannot be made without 'great prejudice' to the owners. Our
10 statute (Rem. Code, § 838) authorizes actions for partition of
11 property, 'and for sale of such property, or a part of it, if it
12 appear that a partition cannot be made without great
13 prejudice to the owners.' And again section 845 declares:

14 'If it be alleged in the complaint and established by
15 evidence, or if it appear by the evidence without such
16 allegation in the complaint, to the satisfaction of the court,
17 that the property, or any part of it, is so situated that partition
18 cannot be made without great prejudice to the owners, the
19 court may order a sale thereof, and for that purpose may
20 appoint one or more referees. Otherwise, upon the requisite
21 proofs being made, it shall decree a partition according to
22 the respective rights of the parties as ascertained by the
23 court, and appoint three referees therefor, and shall designate
24 the portion to remain undivided for the owners whose
25 interest remain unknown or are not ascertained.'

26 Construing a statute couched in terms not materially
27 different from ours, an able court has held that the term
28 'great prejudice to the owners' means material pecuniary
loss. The court said:

29 'So the established test of whether a partition in kind would
30 result in 'great prejudice to the owners' is whether the value
31 of the share of each in case of a partition would be
32 materially less than his share of the money equivalent that
33 could probably be obtained for the whole.' *Idema v.*
34 *Comstock*, 131 Wis. 16, 110 N.W. 786, 120 Am. St. Rep.
35 1027.

36 See, also, to same effect *Vesper v. Farnsworth*, *supra*.

37 The Supreme Court of Appeals of West Virginia has clearly
38 expressed what we conceive to be fundamental guiding
39 principles in all cases, though the statute there involved
40 made the criterion 'convenience' instead of great prejudice.
That court said:

1 'In any case such sale may be made if the parties are all
2 adults and consent thereto. But the court has no right to
3 decree a sale without their consent, unless it finds: First, that
4 partition in kind cannot be conveniently made; and, second,
5 that the interests of the parties owning the land will be
6 promoted by a sale. These two requisites are conditions
7 imposed by the statute which alone confers upon a court of
8 equity the power to make a sale at all. They are important
9 and indispensable conditions. The statute is an innovation
10 upon the common law, taking away from the owner the right
11 to keep his freehold, and converting his home into money.
12 That must not be done except in cases of imperious
13 necessity. It is a legislative alteration of a canon of the law
14 which forms part of the substructure of our jurisprudence.
15 Forcible conversion of property into money is avoided
16 wherever possible.' Croston v. Male, 56 W.Va. 205, 49 S.E.
17 136, 107 Am. St. Rep. 918.

18 See, also, Roberts v. Coleman, 37 W.Va. 143, 16 S.E. 482.
19 Pomeroy (section 1390) expresses the same thought
20 when he says the power of sale is to be exercised 'whenever
21 it shall appear to the court * * * that a sale would be more
22 beneficial, or less injurious, than an actual division.'

23 Since by the statute itself the power of the court to order a
24 sale is conditioned upon a showing that great prejudice
25 would result from a division, there is a presumption that
26 land held in common can be equitably divided according to
27 the interests of the parties, measured by value. The burden
28 of proof to show great prejudice, therefore, rests upon him
29 who asserts it. East Shore Co. v. Richmond Belt Ry., 172
30 Cal. 174, 155 P. 999; Mitchell v. Cline, 84 Cal. 418, 24 P.
31 164; Hellier v. Syck, 147 Ky. 762, 145 S.W. 1110; Idema v.
32 Comstock, supra.

33 Williamson Inv. Co. v. Williamson, supra., 96 Wash. 534-537. Of interest, it is clear that
34 the Williamson Court was construing Washington statutes that were substantially identical
35 to the existing Idaho Code §§ 6-501 and 6-512.

36 In 1943, the California Court of Appeals addressed the issue of the legal preference
37 for a partition in kind over a forced sale in clear and uncertain terms and also recited the
38 general rule that the preference of one tenant for a sale rather than a partition in kind is of
39 no consequence to the decision:

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1 The rule in California, and generally elsewhere, is that
2 partition in kind is favored by the law, and that a sale will be
3 ordered only when it is necessary to prevent great prejudice
4 to the owners. In *Mitchell v. Cline*, 84 Cal. 409, 418, it is
5 said: "Under the code rule, the party asking for a sale instead
6 of a partition has the burden of proving that a partition
7 cannot be made without great prejudice to the owners."
8 (*Italics by the court.*)

9 It is said in 47 Corpus Juris 442, section 436: "As between a
10 partition in kind or sale of land for division, the courts will
11 favor a partition in kind, since this does not disturb the
12 existing form of inheritance or compel a person to sell his
13 property against his will, which, it has been said, should not
14 be done except in cases of imperious necessity. It is no
15 objection to a partition in kind that some of the co-tenants
16 prefer a sale to a partition. ..." (*Italics ours.*)

17 In 40 Am.Jur. 72-74, it is said that at common law and in
18 equity as well, in proceedings for the partition of land, the
19 co-tenants were entitled to partition in kind if they so
20 demanded, regardless of the difficulty and inconvenience of
21 partitionment; that the right to have the premises sold if they
22 are of an impartible nature has been provided for by statute,
23 but that the burden of proof to establish the necessary
24 requisites to a sale rather than a partition in kind, is on the
25 party alleging the necessity and advisability of such sale,
26 that a sale cannot be decreed merely to advance the interests
27 of one of the owners; and that before ordering a sale the
28 court must ascertain that the interests of all will be
promoted. It is also said that the generally accepted test of
whether a partition in kind will result in great prejudice to
the owners is whether the value of the share of each in case
of a partition will be materially less than his share of the
money equivalent that could probably be obtained for the
whole; that because the land may vary in quality, locality
and improvements and is not of uniform value, and if a
partition in kind be made some of the shares will be of small
area, does not necessarily warrant a sale. See 20 R.C.L. 773-
774 to the same effect.

25 Williams v. Wells Fargo Bank & Union Trust Company, 56 Cal. App. 2d. 645, 647-648.
26 (Cal. App. 3rd. 1943).

27 The Williams decision, citing an earlier Oregon Supreme Court decision in the
28 case of *Thompson Estate Co. v. Kamm* expressed another potentially relevant concept in

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1 these terms regarding a forced partition by sale:

2 "...plainly it would be disadvantageous to sell the property
3 on a dull market since both parties would suffer by such a
4 proceeding;"

5 Williams, supra., 56 Cal. App 2d. at 648.

6 2. Accounting.

7 In Count II of her Amended Complaint the Plaintiff requests an accounting of the
8 assets of the Clark-Pandrea Trust alleging that the Defendant has exercised dominion and
9 control over assets properly belonging to the trust and has not made an accounting of those
10 assets.

11 It is expected that at trial the evidence will be that the Clark-Pandrea Trust had
12 only four assets. 1) A long expired life insurance policy, 2) Parcel 1, 3) Parcel 2 and 4)
13 another five acre parcel of land owned entirely by the Defendant, Kari A. Clark in which
14 Plaintiff Mary E. Pandrea has never had an individual interest.

15 It is expected that the trial evidence will be that the terms of the Clark-Pandrea
16 Trust expressly provided for the distribution of assets to the trustors upon termination of
17 the trust. Included in the mandatory language of the Clark-Pandrea Trust is the
18 requirement that upon revocation of the trust by either Trustor, "the Trustee shall deliver
19 the property to both of the Trustors as was held by them prior to the creation of this Trust."
20 the property to both of the Trustors as was held by them prior to the creation of this Trust."

21 It is expected that the trial evidence will be that Paragraph 10.2 of the Clark-
22 Pandrea Trust provides the mechanism for requesting an accounting and that the Plaintiff
23 has never requested an accounting from the Defendant under that paragraph. It is also
24 expected that the trial evidence will be that Defendant Kari A. Clark fully complied with
25 the terms of the Clark-Pandrea Trust prior to the filing of the Plaintiff's Amended
26 Complaint for Partition and Accounting.
27
28

1 If the relief requested by the Plaintiff in Count II of her Amended Complaint seeks
2 an accounting outside the province of the Clark-Pandrea Trust, the standards applicable to
3 that form of accounting were discussed by the Idaho Supreme Court in the Cox case cited
4 above:

5
6 An accounting is an equitable [71 P.3d 1032] remedy. See
7 Farmer v. Loofbourrow, 75 Idaho 88, 92, 267 P.2d 113, 115
8 (1954); Havelick v. Chobot, 123 Idaho 714, 718, 851 P.2d
9 1010, 1014 (Ct.App.1993). The goal of an accounting is to
10 ascertain a party's interest in property and to determine the
11 value of the party's interest. See Havelick v. Chobot at 718,
12 851 P.2d at 1014. When two parties are unable to settle their
13 joint financial affairs, an accounting is an appropriate
14 remedy. Id.

15 Cox v. Cox, 138 Idaho 881, 885, 71 P.3d 1028 (Idaho 2003). The trial evidence is
16 expected to be that the life insurance policy owned by the Clark-Pandrea Trust expired
17 prior to the revocation of the trust. The trial evidence is further expected to be that
18 Defendant Kari A. Clark, as Trustee of the Clark-Pandrea Trust properly conveyed to
19 herself, as required by the express terms of the trust, a parcel of land which she had
20 conveyed to the trust in which Plaintiff Mary E. Pandrea had not legal or equitable
21 interest. The trial evidence is also expected to be that months prior to the filing of the
22 Plaintiff's Amended Complaint Defendant, Kari A. Clark, as Trustee of the Clark-Pandrea
23 Trust, executed and recorded a corrective deed ensuring that Parcels 1 and 2 were properly
24 conveyed out of the trust to Kari A. Clark and Mary E. Pandrea as required by the terms of
25 the trust.

26 3. Plaintiff's Claim for Reimbursement.

27 The Plaintiff is expected to request that the Court award her certain sums which
28 she claims she expended for the benefit of the properties during the period of the co-
tenancy. The rule in that regard appears to have been most recently stated in Idaho in the

1 case of BahnMiller v. BahnMiller, 145 Idaho 517, 181 P.3d. 443 (Idaho 2008):

2 With respect to the cost of the improvements, "[i]f there be
3 authority by agreement or otherwise to improve the property
4 at the expense of the cotenants therein, then the cotenant so
5 improving will be entitled to contribution from his cotenants
6 if he act prudently and in good faith." Keyser v. Morehead,
7 23 Idaho 501, 506, 130 P. 992, 994 (1913).

8 BahnMiller, supra., 145 Idaho at 521. There is a caveat. Before awarding a co-tenant
9 reimbursement from another co-tenant for expenses made in conjunction with co-owned
10 property, the trial court must find either that the expenses were incurred by the paying
11 tenant with the authority of the other, or that the expenses incurred were "absolutely
12 necessary" for the benefit and preservation of the common property:

13 A tenant in common is held to be entitled to contribution for
14 expenditures absolutely necessary for the benefit and
15 preservation of the common property." Keyser v. Morehead,
16 23 Idaho 501, 506, 130 P. 992, 994 (1913).

17 BahnMiller, supra., 145 Idaho at 522. It is expected that the trial evidence will be that in
18 about 2004 the Plaintiff, Mary E. Pandrea, told her son John Pandrea that he could reside
19 on Parcel 1 rent free, and that at approximately that time he commenced renovations to the
20 cabin for that purpose. The Plaintiff, Mary E. Pandrea, regards Parcel 1 and the cabin
21 located on Parcel 1 as her property, and in fact, has locked the Defendant out of the
22 property, and her son John, as her 'caretaker,' has gone so far as to attempt to have the
23 Defendant arrested for trespass when she attempted to enter Parcel 1 to visit her Father's
24 grave site. Fortunately the Bonner County Sheriff's deputies who arrived on the call were
25 reasoned men.

26 It is expected that it will be undisputed at trial that someone has started renovated
27 an old cabin located on Parcel 1. But it should be undisputed that the renovations are
28 incomplete, that the cabin remains uninhabitable, that the improvements were never

DEFENDANT'S TRIAL BRIEF - 20

1 discussed with, nor approved by, the Defendant, that they have not added any value to the
2 property as of the time of trial and that they were undertaken without the required permits.
3 As a matter of equity, the Defendant should not be held accountable for to the Plaintiff for
4 any unnecessary expenditures regarding the cabin. Further, the Plaintiff received and
5 retained funds from logging which she undertook on the property which she has declined
6 to precisely quantify and if the Court determines that the Plaintiff is entitled to
7 reimbursement, such reimbursement should be offset by the amount of one-half of the
8 proceeds obtained by the Plaintiff when she logged the property, and further offset by the
9 value of the Plaintiff's use of the property, including rent, for the years that the Plaintiff
10 has excluded the Defendant from Parcel 1 and the expressed easement across Parcel 1 to
11 Parcel 2 as prayed for by the Defendant in her counterclaim.
12

13
14 3. Defendant's Counterclaim for Exclusion.

15 The case of Cox v. Cox, discussed above, also sets forth the standards for
16 evaluating a co-tenant's claim that the co-tenant has been wrongfully excluded from co-
17 owned property:

18 "Tenants in common are entitled to use and possess
19 common property subject to the condition that they may not
20 exclude other co-tenants from use and possession of the
21 common property. Watts v. Krebs, 131 Idaho 616, 623, 962
22 P.2d 387, 394 (1998). Though a settled issue in many states,
23 no Idaho court has decided the issue of whether an ousted
24 co-tenant is entitled to a proportion of the fair rental value of
25 common property. The majority rule is that when one
26 co-tenant excludes another co-tenant from use and
27 possession of common property, the excluding co-tenant is
28 liable for the value of their exclusive use of the property,
including rent. Sack v. Tomlin, 110 Nev. 204, 871 P.2d 298,
306 (1994); Palmer v. Protrka, 257 Or. 23, 476 P.2d 185,
190 (1970) (when difficulties in personal relationships
between cotenants make co-occupancy impossible, the
excluded co-tenant is entitled to the rental value of their
interest in the property); Ireland v. Flanagan, 51 Or.App.
837, 627 P.2d 496, 500 (1981); Maxfield v. Maxfield, 47

1 Wash.App. 699, 737 P.2d 671, 676 (1987); Cummings v.
2 Anderson, 94 Wash.2d 135, 614 P.2d 1283, 1289 (1980)
3 (where property is not adaptable to double occupancy, the
4 mere occupation by one co-tenant may operate to exclude
5 the other). This Court adopts this position."

6 Cox v. Cox, 138 Idaho 881, 886, 71 P.3d 1028 (Idaho 2003). In this case, it is expected
7 that the trial evidence will be that in approximately 2004 the Plaintiff unilaterally decided
8 to undertake renovations to an old log cabin which is situated on Parcel 1. It is expected
9 that the Plaintiff will testify that in approximately 2004 the Plaintiff told her son, John
10 Pandrea, that he could reside on Parcel 1. In conjunction with the Plaintiff's possession of
11 Parcel 1 the Plaintiff changed the locks to the gate to the parcel and also to the cabin to
12 prevent access to Parcel 1 and the cabin by others, including Defendant Kari A. Clark. In
13 conjunction with that exclusion, the Plaintiff either expressly or implicitly authorized her
14 son John Pandrea to seek to prevent Defendant Kari A. Clark from entering upon Parcel 1.
15 Defendant Kari A. Clark should be entitled to recover against Plaintiff Mary A. Pandrea
16 on her counterclaim for exclusion. The measure of damages is the fair value to the Plaintiff
17 of the use of the property, including the fair rental value.

18 Parcel 2 is accessed across an easement for ingress and egress reserved by common
19 grantor Harry F. Clark both for the benefit of Parcel 2 and for the benefit of another
20 adjacent parcel (Parcel 4) owned by another sister, Wilma. The exclusion of Defendant
21 Kari A. Clark from Parcel 1, also operated to exclude her from use of the expressed
22 easement to Parcel 2 and the Court should consider whether damages should include the
23 fair value of the use of both parcels.

24 CONCLUSION

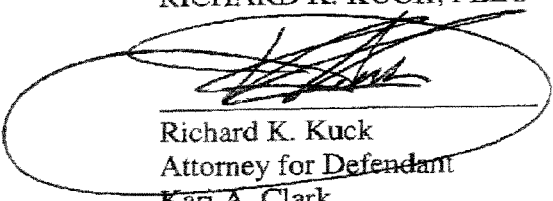
25 In the event that the Court determines that law or equity requires that a partition
26 occur at this time, the Court should order a partition in kind in conformance with Section
27

1 12-610(b) of the Bonner County Code and award Parcel 1 to the Plaintiff, as it is legally
2 described, and award which would also provide to the Plaintiff the full benefit of any
3 expenditures which she has made to improve that Parcel, if any, and award to the
4 Defendant Parcel 2 as it is legally described.

5
6 If the Court determines that the Plaintiff is entitled to any reimbursement for any
7 expenditures which she made to the benefit of the property, or which were absolutely
8 necessary for the benefit and preservation of the common property, the Court should offset
9 that award by the Defendant's payments similarly made, and for the Defendant's
10 proportionate share of the logging proceeds and for the value of the Plaintiff's fair use of
11 the property, including rental value from the date that the Defendant was first excluded
12 from the use of that property.

13
14 RESPECTFULLY SUBMITTED this 29th day of May 2012.

15 RICHARD K. KUCK, PLLC

16
17 
18 Richard K. Kuck
19 Attorney for Defendant
20 Kari A. Clark
21
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28

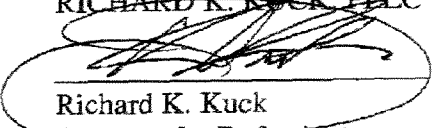
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of May 2012 I caused to be served a true and correct copy of the foregoing document, by the method indicated below, and addressed to the following:

Douglas S. Marfice
Theron J. DeSmet
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d' Alene, ID 83816-1336

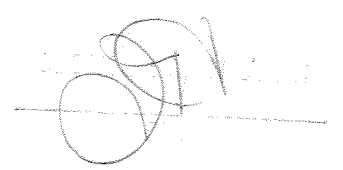
☐ U.S. Mail, postage prepaid.
☒ Fax transmission (208) 664-5884
☐ Hand delivered.
☐ Overnight mail

~~RICHARD K. KUCK, PLLC~~


Richard K. Kuck
~~Attorney for Defendant~~

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

FILED
JUL 1 2011
CLERK OF DISTRICT COURT
COEUR D'ALENE, IDAHO
37 1731 A.B. 05


IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

PLAINTIFF'S *THIRD*
***SUPPLEMENTAL* EXHIBIT LIST**

COMES NOW Plaintiff, Mary E. Pandrea, and submits the attached Third Supplemental Exhibit List identifying the Plaintiff's proposed trial exhibits.

Plaintiff reserves the right to supplement and amend this Exhibit List prior to trial.

DATED this 30th day of May, 2012.

RAMSDEN & LYONS, LLP

By: 

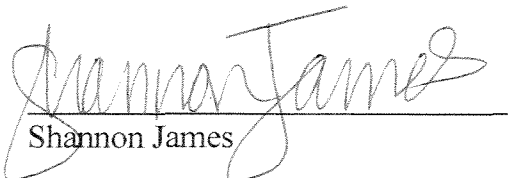
Theron J. De Smet, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of May, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile (208) 665-4621


Shannon James

PLAINTIFF'S EXHIBIT LIST

3rd SUPPLEMENTAL

Case No: **CV-11-835**

Trial Date: **June 12, 2012**

Title of Case: ***Pandrea v. Clark***

 X PLAINTIFF'S EXHIBITS (list numerically)

 DEFENDANT'S EXHIBITS (list alphabetically)

No.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
	PLAINTIFF'S EXHIBITS					
1	Appraisal Report-Carter					
2	Appraisal Report-Vogel					
3	Comparative Market Analysis					
4	Calculation-Cost of Appraisals and CMA					
5	Receipts Payment-Appraisals and CMA					
6	Calculation-Taxes 20 Acres (1996-2011)					
7	Receipts for Taxes 20 Acres					
8	Calculation-Taxes 5 Acres (1996-2009)					
9	Receipts for Taxes 5 Acres					
10	Calculation-Life Insurance Payment					
11	Receipts-Life Insurance Payment					
12	Calculation-Well Drilling					
13	Receipts-Well Drilling					
14	Calculation- Log House Renovation					
15	Receipts/Documentation-Log House Renovation					
16	Calculation-Tree Farm Expenses					
17	Receipts/Documentation-Tree Farm Expenses					
18	Bill/Payments-Tucker Brown & Vermeer, LLC (Engineering)					
19	Bill/Statement-Miller & Associates					
20	Calculation-Legal Expenses (Trespass)					

No.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
21	Bill/Payments-Legal Expenses (Trespass)					
22	Letter and related documents to Clark (12/21/10)					
23	Letter, related documents, and earnest money check to Clark (2/12/2011)					
24	Topographic Map of Property					
25	Satellite Picture of Property					
26	Satellite Picture of Property with Property Boundaries					
27	Survey Drawing of Property					
28	Photographs of Old Log House and Renovations					
29	Photographs of Bridge Accessing Property (~1990 and ~2011)					
30	General Photographs of Property					
31	Expert Opinion-Suzanne Metzger					
32	Expert Report-Calculated Expenses					
33	Pandrea/Clark Trust Agreement					
34	Plat Map – 7/3/1979					
35	Warranty Deed-Bank of Idaho to Pandrea-3/27/1980 (Instrument #226223)					
36	Warranty Deed-First Interstate Bank to Clark-10/17/1991 (Instrument #396781)					
37	Quitclaim Deed-Pandrea ½ Undivided Interest to Clark-2/16/81 (Instrument #240369)					
38	Quitclaim Deed-Clark ½ Undivided Interest to Pandrea-11/24/92 (Instrument #416380)					
39	Warranty Deed-Clark to Trust-3/9/2002 (Instrument #600363)					
40	Warranty Deed-Clark/Pandrea to Trust-3/9/2002 (Instrument #600364)					
41	Warranty Deed-Clark/Pandrea to Trust-3/9/2002 (Instrument #600365)					
42	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795211)					

No.	DESCRIPTION	BY STIP.	OFFERED	RECEIVED	REFUSED	RESERVE
43	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795213)					
44	Quitclaim Deed-Trust to Clark/Pandrea-7/12/2010 (Instrument #795212)					
45	Correction to Quitclaim Deed-Trust to Clark/Pandrea 8/5/2011 (Instrument #813590)					
46	Letter Clark to Pandrea re: Tree Farm 11/5/2002					
47	Easement-10/24/1975					
48	Letter Clark to Pandrea 9/23/1990					
49	Clark Account Statement-WSECU					
50	Pandrea Account Statement-WSECU					
51	General photo of property					
52	Water Rights Receipt/Diagram					
53	Additional Property Diagrams					

RAMSDEN & LYONS, LLP
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Telephone: (208) 664-5818
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Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 JUN -6 P 4:09

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
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Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**NOTICE OF TAKING DEPOSITION
OF SUZANNE METZGER**

Date: June 7, 2012

Time: 1:30 p.m. (PST)

Place: Ramsden & Lyons, LLP

TO: DEFENDANT – KARI A. CLARK

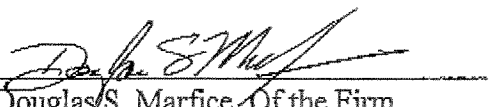
AND TO: DEFENDANT'S ATTORNEY – RICHARD K. KUCK

YOU WILL PLEASE TAKE NOTICE that Plaintiff Mary E. Pandrea, will take testimony on examination of SUZANNE METZGER before a court reporter and notary public commencing on **Thursday, June 7, 2012 at 1:30 p.m. (PST)** and continuing thereafter from day to day until such time as the taking of the deposition may be adjourned, at the offices of Ramsden & Lyons, LLP, 700 Northwest Blvd., Coeur d'Alene, Idaho, at which time and place you are notified to appear and take such part in the examination as you may deem proper. This deposition shall be taken pursuant to the Idaho Rules of Civil Procedure.

DATED this 6th day of June, 2012.

RAMSDEN & LYONS, LLP

By:


Douglas S. Marfice, Of the Firm
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 6th day of June, 2012, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 667-3379


Shannon James

Description		BONNER CV 2011-835 Pandrea vs Clark 20120612 Court Trial Day 1	
		Judge John Patrick Luster Clerk Kathy Booth Court Reporter Julie Foland PA Doug Marfice DA Richard Kuck	
Date	6/12/2012	Location	1K-COURTROOM1
Time	Speaker	Note	
01:20:57 PM	J	Calls case - PA Marfice, DA Kuck present with clients - for Bonner County Court Trial. The parties have agreed to have the matter tried in Kootenai County.	
01:21:29 PM	PA/DA	Correct	
01:22:27 PM	H		
01:22:28 PM	PA	We met today and have a stipulation re: exhibits. We stipulate to admit PI 1-53 inclusive as per 3rd supplemental exhibit list. As to defendants we tried to take out duplicate exhibits. Stipulation to O, P and R, V, W, X, Y, Z, AA, OO, PP, QQ, WW, YY, ZZ. Motion to admit per stipulation	
01:24:54 PM	DA	Correct	
01:25:02 PM	J	PI 1-53 inclusive are admitted Def O, P, R, V, W, X, Y, Z, AA, OO, PP, QQ, WW, YY AND ZZ ARE ADMITTED BY STIPULATION.	
01:25:49 PM	pa	No other preliminary matters.	
01:25:57 PM	DA	We also have a stipulation to 12-610(b) Bonner County ordinance. I have a copy for the court. The parties agree that the ordinance allows the partitioning back to the original 2 parcels.	
01:26:55 PM	PA	The admission of the ordinance is appropriate and there will be argument as to applicability.	
01:27:17 PM	J	There is an agreement that the court will consider Bonner County Ordinance 12-610(b).	
01:28:11 PM	PA	Opening remarks	
01:39:35 PM	DA	Opening remarks	
01:56:29 PM	PA	Calls #1	
01:56:33 PM	C	Swears	
01:56:37 PM		Mary Pandrea - 11616 S. Chalet, Cheney, WA. We're here regarding property on the Pack River in Bonner County. That property was acquired by my parents in 1944. In 1944 I was 2 years old. I have a recollection of moving into the house when it was completed in 1946. The house is located on I (on map).	

0268

	#1	<p>When we moved into the house it was a log structure -2 stories. My father built it without any power tools and he did most of the work himself. I remember moving into it at about 4 or 5 years of age. I have 7 siblings. There were 8 born into the family. We did not all live there. One of my sisters, Wilma, was adopted out of the family. The other siblings did reside on the property until about the age of 12 when they left the property to live with other families to go to school in Sandpoint. My brother and I are the only ones who lived there through graduation. I graduated in 1960 and then went to school in Cheney, WA. My parents continued to live there until father's death in 1975. Mom did not live at the property after Dad's death. Mother had renters there for a very short period of time. The property was in a trust created just before my father's death. The trust was with the Bank of Idaho. The trust consisted of just property - 250 - 300 acres of land. It was set up so Mother would have something to live on - to provide income for her. It was for selling and it was sold off in small parcels over the years. About 1978 it was surveyed and they began selling most of it so Mother was finally receiving a livable income. The trust lasted until about 1997. In 1971 they had 310 acres so by 1975 they had sold a bit of it but it was about 300 acres. On Dad's passing all the property went into a trust. My parents had not acquired all the property in a single transaction.</p> <p>Def EX #1 - survey - this is not all the property that went into the trust. I was aware of the survey being done. The bank of Idaho trust department was in charge (of the trust).</p>
02:06:15 PM	PA	That is Plaintiffs EX #34 (not Def EX #1)
02:06:32 PM		<p>The surveyor had done a bit of work for my father over the years and I helped B of A get in touch with him.</p> <p>My father had either gifted or sold some parcels before his death. The bank's intention was to create marketable parcels in order to sell them as necessary. Two of the siblings had to agree before the bank sold any parcels. That was in the trust agreement. From Dad's death to about 1978 or 1979 the trust was not really generating much income. During that time Mom lived in Sandpoint by herself until 1977. She broke her leg in July 1977 and I moved her to Vancouver, WA to help her mend. She continued to live with me until about 1986.</p> <p>The home place, parcel I is 5 acres bounded by Tavern Creek and Pack River and it is an elevated bench for the most part, where the house is and then as it slopes on the river there is a steep embankment consisting of what was my father's field - there are trees there now. There are a few old buildings there. EX #30 - photos. The top picture is a picture of my father's shop probably built late 40's or early 50's. The bottom picture is the log home</p>

where we grew up. I believe it was taken in 002 or maybe 2003. The roof was caving in and it was rotting away. I had not been occupied as a residence until the late 70's. The last person living there was perhaps a renter in 1978. The house doesn't look like that today. My son began renovating the old house in 2004 doing a complete tear down.

Bob Kamp was a neighbor of ours. I met him in the early 70's. He was a retired Marine Corps officer and a very good friend of mine. He had talked to me about purchasing the home place when he found out it was available. He said that he would not out-bid me if someone in the family wanted to buy it. By 1990 the bank had the survey and was starting to offer up parcels for sale. 2 siblings had to approve of the sale. The bank didn't give preferential treatment to siblings in the sale.

When Bob Kamp expressed an interest I had several conversations with him abo I conveyed some money to Kari. EX #50 is a statement from the credit union of my account October 1, 1990- 10/31/90 showing \$9,000 transfer. This is to help her convey the parcel II.

#1

EX #36 warranty deed from First American Title Company to Kari for Parcel II dated August 21, 1991. The sale price was \$15,000 even. I was purchased on \$5,000 down and the balance on contract with 10.5% interest. I was in contact with Kari the whole time.

EX #38 - 11/82 was a quit claim deed for parcel II that Kari executed to me just as I had done with Parcel I. We continued to hold parcel I and II as co-tenants. We equally owned them the entire time frame.

EX #33 - the trust was created between the 2 of us. We wanted to ensure the property would stay in the family for the children. We decided on a trust to keep the property in the family. We both agreed on the trust and moved forward with it. Nothing really changed. In 2005 there was a sudden change in Kari's relationship with me. I was on the property watering trees one day. Kari had been up staying with Ethel Boyd, a sister who had a cabin there. They came together to where I was watering the trees. Kari was very angry and was yelling at me saying she'd brake the trust. She said she didn't want Buddy O'Neill and his family camping there. Buddy was a nephew. I'll never forget it because Ethel's appearance was smug like she'd accomplished what she had set out to do.

We had both co-owned parcel I and II and had never had any problems regarding the use of either property. Because we lived on the coast we usually only came up here once or twice and

0270

		<p>during the summer. We had a lot of family and had reunions there. There never was a time that either of us said the other couldn't go to or use the property.</p> <p>In 2002 when we created the trust - it was written by a law firm in Las Vegas. I was living there with my daughter and her family in 2002. I was the point of contact with the lawyers. The April 9, 2002 date was actually signed in Ha</p>
02:32:48 PM		
02:44:55 PM	J	Recess
02:57:00 PM	J	Back in session
02:57:04 PM	#1	<p>In 1992 I was living in Albin, WA near Pullman. In 1986 mother moved to Newcastle, WA living near brothers and sisters and then moved back to Sandpoint.</p> <p>Kari entered into the contract in 1991 and then in 1992 deeded me 1/2 interest in 1992. The property had not been paid off - it was on a 5 year contract. From time-to-time I made payments but I don't recall how many. At this point we still had a good relationship. There were no problems or bumps in the road until 2002. I got an attorney in Las Vegas to prepare the trust and the cost was around \$2,000 and I paid it. Kari didn't pay any of it. The property was being assessed for taxes. After parcels I and II were combined I paid the taxes for the most part. She may have paid one or two but for the most part I paid them.</p> <p>EX #6 Bonner County Treasurers office records - summary of property tax obligations for the 2 parcels held in the trust or jointly by Kari and myself from 1996 to 2006. This is a summary of what I paid on behalf of the property.</p> <p>In 2002 I started doing work on the property. I had a well drilled and I also did a study for Idaho Department of Lands in creation of an American Tree Farm. Explains American Tree Farm. The property in the tree farm designation is assessed at forest production land and you get a huge break on your taxes. ID Department of Lands administers the program but work hand-in-hand to facilitate the program. The tax office gives the property owner an incentive. It adds value for the future and there is the aesthetic value and is beneficial to the streams. It has to be approved and certified through ID Department of Lands. They give you beautiful signs. They recommend that you plant the trees 10' apart and you make diagonal rows. I did the physical work on the property, took a forestry program. I ordered 500 white pine trees from the U of I and planted an additional 100 large trees, some Ponderosas with a total over 700 trees and I planted them myself. I did all the work. The trees are seedlings.</p>

03:15:47 PM	DA	Objection
03:15:54 PM	J	Sustained
03:16:11 PM	#1	<p>I've had 2 experiences with people trying to put roadways through the property in an illegal trespass. The first time was 1998 and then 2002. It was the same property they were trying to get to but different people.</p> <p>There is a road that intersects the county Pack River Road about 300' from the bridge where it crosses the river. It's a logging road my father had built in the 1950's and it goes almost directly to the grave site of my parents. Draws on map the location of the road. I refer to this as the upper road. Two times someone was using the upper road or trying to get it extended. They cut NW of where the grave is and went down to the river cutting right through the property. I remember that I had to seek legal advice. I may have had a surveyor come out to determine where the line was but I'm not sure.</p> <p>EX #18 - invoice 9/2002 from the same surveyors who did the diagram we're using today. There are also canceled checks all dealing with the trespass. I paid those invoices. Kari did not contribute to this expense. EX #19, #20 and #21. Describes documents - from surveyor 1990 for some other survey work as to parcel I. EX #21 legal work invoice \$573 references trespass in Bonner County. He sent a letter to all owners of the northern property and that resolved that trespass issue. Kari didn't contribute to that expense. I did this in protection of the property.</p> <p>Parcel 1 butts up against Tavern Creek. There is a bridge over Tavern Creek that gives access to the property. There was not originally a bridge there. We used to access the property by going down a little road that crossed the river. He called that place the island because the only way you could get there was to cross the river. He put in a log and dirt bridge. The logs would tend to rot over the years and he was working on replacing the logs. The day he died he was working on the bridge and lost control of his tractor and it rolled on him. The bridge was not in good repair when my father died. By about 1985 the br</p>
03:30:28 PM	DA	Objection
03:30:30 PM	J	Sustained
03:30:34 PM		<p>I hired a well driller to drill a well. I did this in 2002 about the same time the trust was created. This entailed research and finding some reputable and someone with small enough equipment that it wouldn't be a problem. They found a good source of water at 40' and we now have a very good well on the property. It only took a week or two to complete it.</p>

0272

	#1	<p>EX #12 I believe the expense related to the well in 2005 is related to the pump. It has a submersed pump that is electric. EX #12 says total cost of drilling the well \$2,371.00. EX #13 is canceled checks. Re: well drilling expenses. \$2,340 was the total I paid. I had put \$1,500 down. I paid the expenses entirely of my own funds. Kari didn't contribute any of the cost of the well.</p> <p>EX #28 - photographs - 2 pages - describes photos. The interior framing photo was probably 2009. The work started in 2004. Before that the house was terribly dilapidated. The roof was collapsed and was rapidly deteriorating. It was not habitable. My son John did the work. No contractor has worked on it. He did have a log expert come and look at the logs to make sure it was a viable project. The only logs he had to remove were the ones that made up the roof structure.</p> <p>Before that were logs, stringers and dirt (foundation). My son removed that and engineered a foundation and it is now all tied in and very strong. I was on the property when some of the work was being done. The materials I paid for and the tools my son brought from Hawaii because he does that building type of work. The tools he didn't have I purchased.</p> <p>EX #15 - receipts for expenses related to renovation of our old log home. EX #14 - total expenditures for log house renovation. 2007 is missing which would probably indicate my son didn't come from Hawaii that year. The agreement was that at some point in time John would be paid for his labors. I think he decided he'd charge by the square foot. That was the essence of it. We didn't have a written agreement and still prese</p>
03:48:41 PM	J	Recess Return tomorrow at 8:30 pm
03:49:13 PM		
03:49:13 PM	End	

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Description	BONNER CV 2011-835 Pandrea vs Clark 20120612 Court Trial Day 2 Judge John Patrick Luster Clerk Kathy Booth Court Reporter Julie Foland PA Doug Marfice DA Richard Kuck		
Date	6/13/2012	Location	1K-COURTROOM1
Time	Speaker	Note	
08:35:05 AM	J	Back in session - witness #1 to resume the stand	
08:36:17 AM	#1	(Mary Pandrea) I planted 500 white pine, 100 larch and about 100 ponderosas for the tree farm. They are planted on both parcel #1 and #2. It probably comprises about 7 acres. At the time I received the certification the ID Dept of Lands required 7 acres. I talked to them recently and they have changed the acreage requirements to a minimum of 10 acres.	
08:38:06 AM	DA	Objection	
08:38:09 AM	J	Sustained - hearsay	
08:38:13 AM	#1	<p>EX #17 has all my receipts. They have not done an audit of my papers. In 2005 I had an interaction with Kari where she said she'd dissolve the trust. It was summer, probably in August. I didn't hear anything from her in regard to that until I received a letter from an attorney that was representing Kari. It was Shirley Bade. I believe it was July of 2010. EX #42 - this letter indicated the trust was or had been resolved. I was not surprised, disappointed. Attached to the letter there was a quit claim deed where Kari had deeded the 5 acre parcel back to Kari and myself in a 1/2 undivided interest. This was as to parcel 1 - the home place parcel. EX #43- another quit claim deed from Kari to Kari for 100% interest - legal description attached appears to be the 5.3 acres or #10. This was property Kari put into the trust shortly after it was created but we didn't co-own it.</p> <p>EX #44 - it was just the first deed included in the letter which was parcel 1. Parcel #10 was not included in the letter nor was #44 which is the quit claim deed conveying 100% interest of parcel 2 to Kari. I went into the Bonner County courthouse, Records office a short time after receiving the letter and researched</p>	
08:46:52 AM	DA	Objection	
08:46:55 AM	J	Sustained	
08:46:58 AM		I received it shortly after being at the recorders office. It was dated June 2010. I then contacted PA. I had no direct contact with	

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	#1	<p>Kari about that issue.</p> <p>EX #45 - correction quit claim deed. I have seen this before - it was recorded August 5, 2011 and purports to correct EX #44 changing the conveyance of parcel 2 as 1/2 interest to Kari and myself. She's conveying to the Kari Clark trust rather than herself. She conveyed the property to herself June 2010 through her attorney Shirley Bade. I contacted PA in the fall of 2010. I did not commence legal action until May 2011. So 3 months after the suit was filed that she corrected the deed so to speak.</p> <p>EX #1 is an appraisal report by Carter Appraisals of parcels #1 and #2. EX #2 is an appraisal report - same property - by Vogel Appraisal. EX #3 is a market analysis by Thomlinson. I requested these reports. I paid for these to be prepared. I believe that it was close to \$1,000 all together. Kari didn't contribute to the costs. I'm not sure if they were made available to Kari.</p>
08:55:39 AM	XE# 1	<p>I'm not alleging anything improper with Kari conveying 100% interest in parcel #10 to herself. There is nothing improper with her conveying parcel #1, parcel #2 should have been conveyed to both of us when it went into the trust. I did not contact Kari to tell her there was an issue. Approximately 3 mos after I filed the suit a correction deed was recorded. I don't know when Kari or her attorney were advised there was a problem with the deed.</p> <p>EX #50 - transfer of \$9,000 in October of 1990. The transfer was as a result of Kari's letter to me EX #48. The letter appears to set forth her request for funds. It does have to do with parcel 2. Kari had too much debt to buy the property so the \$9,000 in essence went to pay off her debts so she could engage herself in a contract with the bank to purchase the property. We both were talking to the bank about the land purchase at that time. Spring 1991 the property was purchased.</p> <p>EX #36 - 8/29/91 I agree this is the finalization of her buying the property. The money set into motion the ability for her to purchase the property on contract. We paid down her debts with my \$9,000 and that enabled her to purchase the property. I'm not sure if the \$9,000 was used for the down payment.</p> <p>I'd say that Kari and I had a very open sister relationship where we would help each other and enter into various real estate together. There was never a request for payback. DEF EX PP - looks like a typed letter from me to Kari. (reviews). This is a letter that I sent to Kari. I said "thanks for the denaro but you don't owe me any money". This was about 6 years after the money was given to her. We had a relationship of giving each other what ever we needed.</p>
09:08:32 AM	DA	Motion to admit PP

0275

09:08:38 AM	J	That has already been admitted as part of the stipulation
09:08:48 AM	#1	<p>A house was purchased (EX PP) considering the fact that my husband worked at the university for 30 years I don't think Kari used her credit to help us buy this house. We had renters in the house. Eventually Kari sold us her 1/2 interest. EX TT is says due at closing from Clark \$15,997.95. It appears that number has been changed but I have no reason to argue with that figure.</p> <p>When I refer to the "Home Place" it includes both parcel 1 and 2. I purchased parcel 1 from the trust in 1980. I had never owned parcel 1 or 2 prior to that. I didn't purchase this with the intent to reside on it as my residence. I do recall answering interrogatories. I don't recall answering interrogatory (as read by DA). Reads verification page of answers to interrogatories. Reviews page #2 - I see the answer but it doesn't make sense. In 1980 I was living in Vancouver, WA. I had a job and was raising my children. At that time I didn't intent to live there. It says "as a place of residence." In the last few weeks I have filed a declaration of homestead and in essence I have declared that after July 1, 2012 I plan to live there.</p> <p>John Pandrea is my son. In 2004 I entered into an agreement with my son to renovate our old log home to a condition where it could be used by the family. I told him he could reside in the residence when working on it and when he came in the summer time. The lien is a result of the work he's done on the house and he deserves it. He's not a licensed contractor in the state of Idaho. He's a builder and he's working on a home he's residing in.</p> <p>In 2002 a trust was created by a Las Vegas Attorney - Clark/Pandrea revocable trust. We wanted to put the property in a trust for our children and grand children. we talked about it at great length and we both decided it was the best thing to do. I selected the attorney as I was living in Las Vegas at the time. Kari was living in Oregon.</p> <p>We had resided together off and on over the years. After 1994 we did reside together. In 1994 I</p>
09:30:39 AM	PA	Objection
09:30:45 AM		Discussion
09:31:51 AM	J	Sustained
09:31:54 AM		<p>I told my son he could live there rent free while he was doing the renovations. I agreed to pay him per square foot for the renovations but don't remember the amount per square foot.</p> <p>The contract for parcel 1 was 1980 and for parcel 2 in 1991. My</p>

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husband Bob Wiltse installed a bridge onto the property in 1991. The yellow line on the exhibit (map) shows the boundaries of the properties. Parcel 1 - black line - is the external boundary of parcel 1. The bridge we installed was over Tavern creek. Marks on exhibit with marker where Tavern Creek is (orange marker) then pink marker for bridge. The bridge was installed in the spring. I'm sure I talked to Kari about incurring the debt for and installing the bridge. I didn't ask her to contribute to the bridge.

I made some of the payments on parcel 2 through out the years. Of the \$9,000 I gave her she may have used some to pay down her debt and some for the down payment. That was a long time ago. After April 2002 the property only had one owner - the Clark/Pandrea revocable trust. This continued until Kari quit claimed property out of it.

#1XE
Continued

We talked about the fact that - probably as early 1990's - that the house was caving in. The roof was caving in. She took a photo and wrote on the back "we need a new roof". We both agreed that if we wanted to salvage the house we needed to do something. I don't know what Kari thought.

I remember Kari purchasing a house on St. Clarie home in Sandpoint. I think this was 1992, after my marriage to Wiltse. Robert and I camped on the property from time-to-time. We had an old school bus converted to a camper and we stayed on the Pack River property. In 2002 I moved to Hawaii with my mother. We moved back to Nevada when I was advised that my only grand child, age the age of 4, was diagnosed with juvenile diabetes. This was August of 2002. We were only in Hawaii for a few months. We lived in Nevada until 2004. Then we lived in Cheney, WA. Mother and I came to the property in 2003. We spent quite a

09:49:44 AM

Kari's letter talked about sending me information she received from our friend Bob Kamp who passed away. She said if we create a tree farm Bob would be smiling down on us. I'm sure I discussed in detail with Kari about creating a tree farm. There were probably letters that eluded to that and we probably talked about it. We didn't discuss a budget for creating a tree farm. I couldn't tell you if the cost of creating a tree farm exceeds what the taxes were. I think in the long haul, 15 - 20 years, there would be a cost savings or people wouldn't do it. It's hard to separate the cost from the benefit you will gain.

In the early 90's I had a forester come out and we had trees dying from pine bark beetle. He marked some and said they could come out. I had some trees taken out prior to creation of the tree farm. I received funds from those trees and this is when we were co-tenants on parcel 1 but I don't know about Parcel 2. The trees

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		<p>came from parcel 1. To the best of my recollection I received about \$3,000 and I didn't share the proceeds with Kari.</p> <p>EX #16 tree farm expenses 2002 - 2009. I would think that since we're in the litigation that these expenses I incurred would be taken into consideration by the Judge in determining how to allocate the properties. I'm hoping to be able to partition the property in such a manner that each party would have enough property to maintain a tree farm. I'd like to get an additional acre or two. I agree that the initial cost of the trees is a sizable amount but there were other expenses. For example, the irrigation system was quite expensive. I think the white pine trees were about \$180. There were also larch trees purchased at around \$50. There may have been one other purchase for pine trees. I don't agree that the vast number of trees are on parcel 1. I planted them and I know where the property line is. Probably 1/2 of them are on parcel 2. I didn't know exactly where Wilma's line was, someone left a red bucket on a fence post and I assume that was her prior to litigation.</p>
	#1 XE Continued	
10:13:21 AM	J	Recess
10:13:33 AM	J	Back in session - continue with XE
10:36:34 AM		<p>The expense to Carl Pitts & son was for the pump - I think this was when they actually installed it. The well was drilled in 2003 but not serviceable until 2005. I don't recall talking to Kari about the pump. I didn't ask her to contribute to the expense of installing the pump.</p> <p>I quit claimed 1/2 interest of parcel 1 to Kari in 1981. Interrogatories page 3 #8 - reads answer. "Defendant's contribution (to down on parcel 1) was not a loan" It was an investment and Kari contributed \$1,620.00 and I contributed \$380 so it was an investment in the property.</p> <p>Photos EX 00. It's a 2 story home my father built, it's a log house. The picture is of my father and the log home my father built. It appears that my father was quite elderly so the photo was probably taken about 1974 - that's a guess. The next photo is another of the log residence and it may have been taken at the same time as the first photo. It is a photo of our home and my father is standing there so it would have been at a time he was living there. The 3rd photo is of the log home residence on parcel 1 also. This photo was probably taken about 2002 at least 2 years before the renovation. The next photo appears to be the old log house but there is something distortional about it. I do not think it is an authentic photograph. About 10 photos back the photo shows the outside of the log structure with some wires running down it. It doesn't look right to me. Looking at the electrical I don't believe there would be any electrical. It appears to be the left side</p>

0278

of the house. I think it should be on the other side of the door. Maybe it's upside down. Now it's right - it appears to be part of the structure. I don't know if it's an altered picture, perhaps it doesn't matter. It appears to be a telephone line. There is a phone line to that residence. The line running to the caretakers home there has been in place since probably 2000. The caretaker is James Gillette. He lives in an RV with an extra room. The next photo shows our logituation for Kari, me and James.

My arrangement with my son John is that he may reside there when he is working on our old home - which is sporadic and is in the summer but he's not been there every summer. He has my permission to reside in the house while he's working there. I've not paid him anything for labor. He's recently filed a claim for work done on renovations. Amounts spent for renovation are for materials and tools. I didn't consult with Kari reimbursement for the materials. I've not discussed with her at all. Kari was very angry and non-communicative after August 2005 and we've had no dialogue. I'm sure we talked about it before this. She never voice to me that she was upset about renovations.

#1 XE
cont.

Nel Gilbertson is my sister Nellie. She wasn't involved in the preparation of EX #1. I was up at her place and perhaps Carter put her down as to where he could reach me. She had absolutely nothing to do with the appraisal. I had hoped to avoid litigation and that it would be possible to offer to buy Kari's interest out. I had to appraisal done so I would know what to offer her. The same is true of EX #2 and #3. I obtained the appraisals to make sure that what I offered to Kari to buy her out was a fair offer.

After 2005 I did not communicate with Kari after her daughter told me that she tore my letters and would not read them.

I obtained counsel and we discussed a sensible approach. I had not filed a lawsuit against Kari to protect my interest in parcel 2 that she had given herself when she dissolved the trust. I have reason to believe it was intentional. I believe that she was being given poor advice from family members that had their own agenda. The attorney representing her shares an office where Terry Boyd either works or spends time there. She had legal advice and they were looking at the trust agreement. The trust agreement says if the trust is revoked the properties are to be put back into the same condition as they were prior. I don't think it was an accident

11:21:33 AM

We co-owned parcels #1 and #2 and Kari owned #10 separately. For 8 years they were all in the trust and the trust was the owner.

EX #10 - life insurance policy. This was taken out to benefit the trust. The attorneys who drew up the trust agreement asked what

	#1 XE cont.	would happen if something happened to Kari and myself and thought it was prudent to arrange for a source of money if we should die. I took out an insurance policy through Allstate payable to the Clark/Pandrea trust. I think it was my life that was insured - I'm not sure but I know it was for \$25,000. It was discontinued in 2008. I had gone to a local broker and talked to them about the policy and was thinking about renewing it and the agent said why not put a policy in my name with a beneficiary on the policy to accomplish the same thing. I put my daughter, Debbie Gadbow, as beneficiary.
<u>11:27:27 AM</u>	RD #1	Installation of the bridge was done to benefit the property. The renovations of the home benefited the property as did the creation of the tree farm. The legal services and survey services re: trespassing neighbor benefited the property. The creation of the trust benefited the property and the children. This was all done to benefit the property.
<u>11:28:44 AM</u>	RX#1	<p>The bridge may not have been the least expensive but it certainly provided a less expensive way to go for the next 20 years. The bridge has been in place since 1991 and was a good investment for the property. Parcel 1 and 2 each have their own legal descriptions. If the court were to partition the property renovations of the home would benefit parcel 2 depending on how the court partitions the property. I think the renovations would benefit family members who want to avail themselves of the facilities. They could shower, cook there.</p> <p>It's not true that other family members have been kept off the property. John put no trespass signs on the old log home. It is actually a construction site and I don't have liability insurance and there are dangers inherent with construction. The signs said "No trespassing. This is the private residence of John Pandrea for Mary Pandrea." The tree farm has been a benefit. The taxes are much lower. If we didn't have it the value on the property would have been about six fold and the taxes would be a lot higher. It's hard to ascertain what the real tax implications would have been beginning 2002 or 2003 without the tree farm because we don't have any figures to look at.</p> <p>The trust agreement was not put into place as a monitory agreement but as a family consideration to keep the property in the family as we felt our father would have wanted us to do if we could.</p>
<u>11:36:27 AM</u>	J?'s #1	My son put a lien on both parcels and he did this just recently. I did authorize it and it is in writing.
<u>11:37:11 AM</u>	DA	I have the claim of lien here and we can submit that as DEF EX ZZ
<u>11:37:41 AM</u>	PA	No objection to following up with EX ZZ

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<u>11:38:07 AM</u>	RRX #1	EX ZZ - I recognize this document as a claim of lien by my son John Pandrea. I signed a portion - declaration. The purpose of the declaration is that as of July 2004 I told him I'd pay him to renovate the log cabin and that he could reside at the cabin. Dated May 14, 2012. The legal descriptions are not attached. I believe it was recorded against parcel 1, 2 and 10 - everything in the trust.
<u>11:39:54 AM</u>	DA	Motion to admit EX ZZ
<u>11:39:58 AM</u>	PA	No objection
<u>11:40:02 AM</u>	J	ADMIT EX ZZ
<u>11:40:07 AM</u>	RRD #1	The final page of EX ZZ is what I was referring to as giving John authorization. I don't believe there are any other written agreements.
<u>11:40:39 AM</u>	J ?'s #1	I don't believe I did anything in writing authorizing him to file the lien.
<u>11:41:19 AM</u>	J	Excused
<u>11:41:33 AM</u>	PA	Suzanne Metzger would be out expert witness - she's unavailable and her testimony was taken in perpetuation last week. We can read it into the record or we can submit it.
<u>11:42:12 AM</u>	DA	I stipulate to submit to the court for it's review.
<u>11:42:43 AM</u>	J	I" accept it pursuant to the stipulation of the parties
<u>11:42:58 AM</u>	DA	There was an objection as to foundation re: opinions and I don't know if that's something the court will rule on - at this point I'll withdraw the objection.
<u>11:43:36 AM</u>	J	Fine - We'll accept the perpetuation of the testimony via deposition. She'll be considered as witness #2
<u>11:44:19 AM</u>	PA	We rest
<u>11:44:22 AM</u>	DA	Calls #3
<u>11:44:44 AM</u>	C	Swears
<u>11:45:26 AM</u>		Kari Ann Clark - I live in Oregon at my present residence 12 years in July. I call the property as our old log house. It's not a cabin. Dad bought a whole bunch of property, maybe an entire section. Mary and I'd go across with mother and father and cross at the river before there was a road there. I lived there as a child. We moved there July 1946 when I was 5. It was all one floor. My father built the home from scratch. We kids slept in the "shelby shack" because there was no place to live when he was building this home. We were caretakers at another home down the road. None of us could stay there and go to High school. The summer I turned 14, 1954, I left and moved in with another family to go to school. I got home sick and moved back home at Christmas and I

0281

#3		<p>left the following summer and lived with my sister from then on. I eventually went to California with my sister but would still come home every few years. That property is special to me, more than anything else. It is very special. We always loved it. Everything about it. We used to walk barefoot in the spring and feel the slush on our feet, pick the flowers, I've told my kids about it. There's the river, the trees. We all just loved it. I was busy raising kids, getting a divorce and getting a good job but I always wanted to get the property. All the time I wanted the land for all of us, for the kids. Eventually I got a fairly decent job and I could buy it. I wanted to buy the whole thing clear to the top of the mountain. Mom said she'd give it to me but I said she couldn't do that. I was delighted when Mary could buy land. It was like it was mine - she shared. I was happy when I could buy my land. When I became aware that parcel 2 was available there may have been other parcels available but I hadn't been paying attention. I know where every rock on there is. I was delighted to buy that. The house Dad built is a little on a plateau as opposed to river bottom. Marks on exhibit where the log house is located. I have a memor</p>
11:59:22 AM	J	Recess - return at 1:00
11:59:35 AM	J	Back in session
01:05:36 PM		<p>There are no structures located on parcel 2. Certain areas of the property are more desirable for water access. Parcel 1 has a desirable place where you can swim. We used to call it the big rock. Big rock is close to Wilma's parcel. It's unique on that part of the river. You can swim and dive. It's located on parcel 1. Parcel 2 there are places you can actually swim. When I was a kid we used for ford the river. You can launch your inner tubes, all the kids like it. Once you launch you can go down to big rock. Big rock is the only place you can do actual swimming. You can meander all along here, it's just beautiful. Dad's grave is bordered on 3 sides by parcel 2. Most of parcel 2 is flat land. In 1948 everything was under water. It's a flood plain. The old logging road goes up to my 5.3 acres - listed as parcel 10 - what Dad gave me.</p> <p>Mary and I both loved the place and loved our father. We talked about how we wanted things to remain the same as they were. I noticed changes August of 2004 - explains changes. I felt absolutely devastated when I saw the log home being renovated. It was a monstrosity and I felt terrible. The only thing we talked about was maybe getting some of the old lilacs and maybe roses but not shanking anything.</p> <p>I knew nothing of starting a tree farm on the property. I had a friend Bob Camp who sent me information about a tree farm and to make him happy I sent information to Mary. In 2003 she and I drove up moving her from Las Vegas. I was very surprised she</p>

0282

had the little tiny trees planted by the shop. She got them for basically nothing tell me some cost \$.15 each. The following year she came driving down and almost drove over me saying she had to water her trees. She almost ran over me. It's absolute fact, it happened. She never talked to me about sharing expenses for a tree farm. About 2005 I first became aware of a tree farm for tax purposes. We were talking through our joint property to the river and I saw these little tiny plants. I thought it wround. They had everything locked and would not allow me in it. I asked for permission to go in.

#3

There was a time I didn't know where Mary was living. I thought she may be staying with my sister Nel and I asked her to let me in. Besides calling me filthy names (both Mary and Nel) they would not let me in. I was astounded when I peaked in the windows because the things I had known and cherished were gone. The stairs were gone, the bathroom and tub were gone. I wasn't allowed in there. Mary never asked me if it were OK for her to make the changes. She never asked me to share in the expense. I would not have agreed to make the changes. They cannibalized the house taking the few things they thought were worth saving and got rid of the rest. I looks like the house that Jack built. The house had a pitched roof. Dad always made a hip roof. That was only the beginning. The porch was probably the next part. Everyone has a different personality. I cannot get out and scream when there are a lot of people against me. I thought it was terrible. Mary and I were barely speaking then. I saw an attorney in Salem and he advised me to send letters to both Mary and our sister Nellie. I did send them by US mail and certified mail telling them I wanted keys to the property - to the house and the gate that led to Dad's grave. They were ignored. I talked to Shirley Bade in 2010. I cannot see one benefit to the owner of parcel 2 to have a renovated house on parcel 1. Mary never told me of plans to live in the home as her residence.

Mary and I were close, she was my sister. We both loved the land and we wanted a place to go to. It made good sense to quit claim 1/2 to her. She and I both agreed that we loved the land, the corral, the shop and the chicken houses. We loved the swamp and wanted to leave it exactly as it was and for our kids too.

Mary never talked to me about her son living there rent free. I think I became aware this past Easter when Wilma and I walked over there. We were having hat it would be safe for both of us and our children. I really loved, respected and admired Mary and I trusted her. I don't know whose life it insured or who the beneficiary was. I don't recall her asking me to pay part of the fees for the life insurance.

Mary told me about the trespassers but didn't ask me to share in

0283

		<p>the costs of getting a survey or consulting legal experts regarding the trespass. We found a lien in 2009 that Mary filed in 2004 and that was the very first time I found out. The lien wasn't served. I visited her in Hawaii and I had to sign the trust. We talked about paying. I don't remember what I paid. I think I paid something. That was in April 2002.</p> <p>I knew Mary was paying the taxes on the property. I never got the statements from Bonner County. Over the years I would pay some. We never had an agreement as to how to pay them. We kind of divvied things up in an unofficial way. When I paid and she didn't have money I never expected her to repay. The same thing would happen with me.</p> <p>Mary never asked if I felt it appropriate for the 2 appraisals or market analysis and she never asked me to share in the costs.</p> <p>I heard Mary testify that she gave me \$9,000. I don't recall her giving that to me. I saw the exhibit and it looks like there was a transfer to my account October 1990. PL EX #38 - I lived in Seattle and writing to Mary who was living in Albin, WA. I was living in my house in Tacoma. I got the house in the divorce. At this time I had tenants in it. The house needed new windows, this and that and the other things. There is a reference to some money for a credit union \$7,948.52. I owed it to the Columbia Credit Union on a loan. Her husband at the time, Robert Wiltse, had terrible credit. I was helping them buy a house. My debt to income was too high. By them giving me a certain amount of money it wouldn't be too high and then they could use my good credit. There was a house that I sold. They wanted to buy a house in Pack River Valley right abo</p>
02:06:09 PM	#3 cont	<p>EX TT - closing statement for the house they bought on Pack River. \$15,597.97 is what I gave them for the down payment. They sold it when they got a divorce. They didn't pay me back the money and I didn't ask them for it. I thought probably they'd pay me anyway and I could have really used the money. I never got it.</p> <p>EX QQ - This is Robert Wiltse's application for the house. This was when I was in Seattle. This is how we worked together re: real estate. We trusted each other.</p>
02:11:50 PM	XE#3	<p>Perhaps my recollection on a few things is a little foggy. I bought the property with Mary and her husband although Mary wasn't working. I don't recall ever receiving \$15,000 from them. Reviews document - signed by me - copy of recorded quit claim deed 1992. I certainly don't recall getting \$17,000.</p>
02:15:16 PM	PA	<p>It recites that \$17,036.97 to Kari you were quit claiming the property to Mary and her husband.</p>
02:15:43 PM		<p>I acquired parcel 2 in 1991. I know that Mary got parcel 1 in 1981. She conveyed 1/2 parcel #1 to me and I conveyed 1/2 parcel #2</p>

		<p>to her. It was our idea to hold the property jointly forever for our, our kids and grand kids enjoyment. I didn't think that there was anything in the trust that changed that. With the trust we both conveyed everything to the trust and I separately deeded parcel #10 to the trust.</p> <p>In 2005 there began to be some family friction when I was on the property. prior to that - 2004 or so, I saw the renovations to the log house and I felt terrible about what I saw. I told Mary and made her aware that she was mutilating Dad's house. I told her I wanted her son to stop. If I was lucky I'd come one day a year. I saw from the outside continued work. I don't believe that I told her to stop every time I came up. In 2003 I saw the small trees planted. I didn't tell her to stop and I thought it gave her something to do. She was just playing around.</p> <p>I didn't object to a creation of a trust. In the beginning I thought it was useless. I trusted her and I thought she trusted me. I didn't object. I didn't object to Mary consulting a surveyor or lawyer re: trespass but I thought the trespasser was our nephew.</p> <p>EX #21 page 2 - I don't know any of the people the letter was written to. I can't disagree that they were determined to be the trespassers. The friction started in 2003. We didn't communicate after 2005 at least verbally. I never told her I'd be on the property on such and such a date. I didn't communicate with her. Mary never told me that I couldn't go on the property unless you consider a locked gate and door. I find fault with Gillette being on the property - he's a drunken slob. I bet I told Mary 1,000 times that he needed to leave. It would be fine to have the property locked if I had keys. It's not true that I didn't communicate with her about this until 2010.</p> <p>EX #42 quit claim deed - page 2 June 29, 2010 contains my signature. That was the first de</p>
<u>02:32:33 PM</u>	J	Recess.
<u>02:32:42 PM</u>	J	Back in session
<u>02:49:09 PM</u>	#3 XE cont.	EX OO - I'm not sure if it's me in the photo. I wouldn't know if this is the inside of the house unless you told me. It could be me and it could be the house- I don't know. It hurts me to look at the photograph because the house is ruined. It doesn't look like the house I grew up in. The word mutilated comes to mind. This was a very unusual time that I got in that one day. I don't know what day it was. I knew it was in the summer. I live a long ways away and I only come up one day per summer.
<u>02:52:14 PM</u>		At some point and time under extreme difficulty I was able to get into the house. It wasn't this year or in 2011 or 2010 or 2009. I would venture it was 2008. I see a big person so I think it's Mary

	RD #3	<p>Pandrea there. It's been years since I've been in the house. I was on the property because I love the house. I grew up there and lived there since 1946 and I try to come every summer.</p> <p>Quit claim deed re: Pack River property - I may have signed it without receiving the \$17,000 because I trusted my sister Mary. I probably would have signed it just because she asked me. I would remember if I had received large sums of money.</p> <p>I wanted just my original 5.3 acres Dad had given to me that had nothing to do with the trust- parcel 10. My lawyer prepared a document giving me 100% of parcel 2. I had no idea she did that in error. It cost me extra money when she fixed it.</p>
<u>02:57:13 PM</u>	J	Excused
<u>02:57:16 PM</u>	DA	Calls #4
<u>02:57:27 PM</u>	C	Swears
<u>02:57:30 PM</u>	#4	<p>Terry Lynn Boyd-Davis I am a paralegal in CDA for MacComber law. I am the granddaughter of Harry Clark and the niece of both pl and defendant. June 2010 there was not a corrected deed. I prepared a corrected deed but not the original deed. When Kari was sued in this matter I became aware of it because of another law suit. When I saw a complaint had been filed I got a copy of it. That was the first time I became aware there was an error and I brought it to Kari's attention. I also told her she was sued. Shirley Bade was already her attorney and Shirley agreed to assist her in this. Shirley's practice is estate. I agreed to do para-legal work for her on this case. I did the amended quit claim, gave it to Shirley, she made her revisions and then it was done.</p> <p>It was my understanding that the June 2010 quit claim deed was a mistake and Shirley was surprised. She didn't realize she had made an error. My mother is Ethel Boyd. I don't live in the area of the dispute but I own property - part owner of C-1. My aunt Jean Coleman and my husband Brian Davis are also on the deed.</p> <p>In 2004 I became aware of differences developing between Kari and Mary. Photo part of OO - I may have taken the photo. More than one of us had cameras and were taking photos. I think this was the day of my grandmother's memorial so it was August of 2010. I can see Jean in the photo and I think this is Kari in the photo. Re: persons present. Mary was not there. The memorial was being held on my mother's parcel 7. After the memorial we walked over to the old farm. My grandmother was cremated so she's not buried with grandfather but there is a headstone there for her. I don't recall encountering anyone else there. Jimmy Gillette was probably there but he stayed in his trailer. I believe we broke a lock but I'm not certain. If we broke a lock it was probably my husband. We had quite a few family members here</p>

0286

		and we all love the old family farm. We love to go over and visit the property. The memorial was over and
03:11:38 PM	XE#4	None
03:12:00 PM	J	Excused
03:12:04 PM	DA	Calls #5
03:12:09 PM	C	Swears
03:12:36 PM	#5	<p>Wilma Elizabeth Mican - I'm the 7th sister and I have a younger brother. I was adopted out of the family as a young baby. After the death of my father they found a piece of property and gave it to me. I'm parcel 9.</p> <p>I got into a dispute with Mary as to trees on my property. My sister Grace told me to come up here that something was going on. I called from Sandpoint and said I was coming up. I came up and a picnic was going on. Nellie and Mary went into the kitchen (Nellie is the 2nd to the oldest sister) and they were complaining about Grace floating the river and not helping with tape and that someone lost land because of fruit trees being planted. We had the picnic. I stayed overnight with Ethel. We walked over to my land and there was string all over it. I said "they planted trees over my property and all this tape is around. Ethel said I must have been mistaken. I didn't say anything and stayed with my mother that night. The next day we told Ethel's husband. Mary had walked the line with Chuck and Robert found the stakes and there were quite a few trees on our property and my husband pulled the tape off. I was angry because I hadn't been told it was happening and I had heard about people getting property that way. Nellie said "you're land-locked" and they were really being nasty. There was a pump on my property on the river. My brother-in-law helped install it and said he didn't realize it was my property. Shows on map where pump and trees were located.</p>
03:19:34 PM	XE #5	<p>It's not possible that the planting on my property was a mistake. I think they were trying to get part of it - a land grab. It caused a lot of hard feelings. This was a biggie for me. I was madder than a wet hen. There were other issues brewing at the same time with other people.</p> <p>I put the land in my kids names in case something happened to me. My daughter camped down there and said she kind of liked the trees. Mary pulled out almost all of them and then my daughter was unhappy. If you disrupt the land it causes water issues.</p>
03:21:43 PM	DA	Rests
03:21:46 PM	PA	There was an objection to a portion of the testimony of Mary Pandrea re: American Tree farm requirements. By way of an offer of proof we have confirmed that the protocol requires 10 - 20,000

0287

		acres. All the testimony has been about the American Tree farm and there is
<u>03:22:41 PM</u>	DA	Idaho Forest Steward program through Idaho. The acreage required for Idaho Forest Steward program is not limited to 10 acres- you can have less and they can qualify for that program.
<u>03:23:42 PM</u>	J	OK, fine The Bonner County Ordinance is marked as VV
<u>03:24:00 PM</u>	PA	We stipulate to admission
<u>03:24:06 PM</u>	J	ADMIT EX VV
<u>03:24:28 PM</u>	DA	Per statue we have no objection if you want to do a site visit if that is of assistance. In terms of a final submission - neither submitted proposed findings and conclusions and we can do that if you set time frame.
<u>03:25:17 PM</u>	J	The opening statements and exhibits were helpful. Oral argument would not be helpful now. There are some things that I haven't looked at - accounting and appraisals.
<u>03:25:55 PM</u>	PA	I concur with counsel. If the court finds it worthwhile for a site visit we have no objection. I'll leave it up to you.
<u>03:26:31 PM</u>	J	It could become an important aspect and I'll consider that the parties are in agreement and no need to come back for that agreement. Recess with counsel and calendars to chambers
<u>03:27:24 PM</u>		
<u>03:27:24 PM</u>	End	

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IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

2012 JUN 14 A 9:53

MARY E. PANDREA,

Plaintiff,

vs.

KARI A. CLARK, et al,

Defendant.

KARI A. CLARK, et al,

Counterclaimant,

vs.

MARY E. PANDREA, et al,

Defendant.

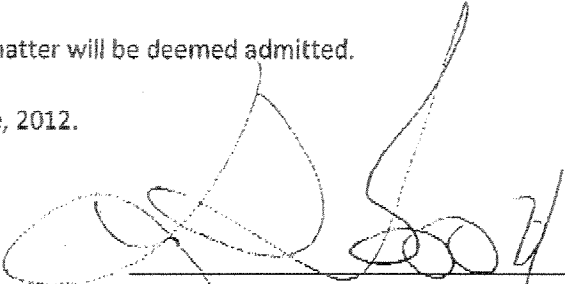
Case No. CV 2011-835

MINUTE ENTRY

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

At the conclusion of trial June 13, 2012, the Court directed counsel to file simultaneous closing briefs by July 16, 2012, after which time the matter will be deemed admitted.

Dated this 14 day of June, 2012.

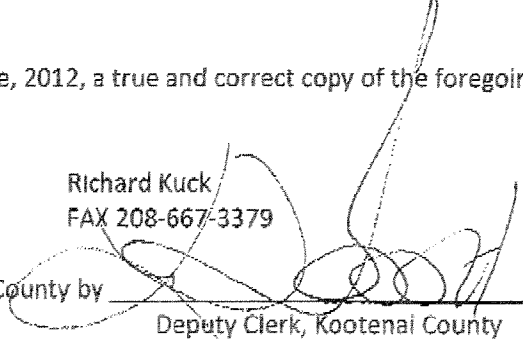

 Kathy L. Booth, Administrative Clerk to Judge Luster
 Kootenai County, Idaho.

I hereby certify that on the 14th day of June, 2012, a true and correct copy of the foregoing delivered Via FAX as follows:

Doug Marfice
 FAX 208-664-5884

Richard Kuck
 FAX 208-667-3379

MARIE SCOTT, Clerk of the Court, Bonner County by


 Deputy Clerk, Kootenai County

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 AUG 16 P 1:50

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

**IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER**

MARY E. PANDREA, a single person,	)	CASE NO. CV – 2011 - 835
)	
Plaintiff,	)	DECISION RE: COURT TRIAL
)	
v.)	
)	
KARI A. CLARK, a single person and as)	
trustee of the KARI A. CLARK TRUST)	
U/A (June 21, 2010),)	
)	
Defendant.)	

Douglas S. Marfice and Theron J. De Smet, RAMSDEN & LYONS, for Plaintiff.

Richard K. Kuck, RICHARD K. KUCK P.C., for Defendant.

I. FINDINGS OF FACT

This case involves two parcels of property that were purchased by Harry F. and Edith E. Clark in 1945, and then conveyed to the Harry F. and Edith E. Clark Trust.

On March 27, 1980, Mary E. Pandrea ("Pandrea"), purchased approximately five acres of property ("Parcel #1") in Bonner County from her parent's estate, the Harry F. and Edith E. Clark Trust. Parcel #1 fronts the Pack River and included a log home and out buildings. On February 16, 1981, Pandrea quitclaimed a one-half undivided interest in Parcel #1 to her sister Kari A. Clark ("Clark"). On October 17, 1991, Clark purchased

a fifteen acre parcel of property ("Parcel #2") from her parents' estate the Harry F. and Edith E. Clark Trust. Parcel #2 is adjacent to Parcel #1 and situated on the Pack River. On November 24, 1992, Clark quitclaimed a one-half undivided interest in Parcel #2 to Pandrea. On May 7, 1991, Clark acquired another 5.3 acre parcel of property ("Clark's") that is contiguous to Parcel #2.

Pandrea and Clark held Parcel #1 and Parcel #2 as tenants in common until April 9, 2002, when Pandrea and Clark created the "Kari A. Clark and Mary E. Pandrea Revocable Trust" ("Clark/Pandrea Trust"). The sisters operated as co-trustees and conveyed their interests in Parcel #1 and Parcel #2 to the Clark/Pandrea Trust, and Clark also conveyed her interest in the Clark Parcel to the Clark/Pandrea Trust. The Clark/Pandrea Trust provided that upon dissolution the properties would revert back to the previous ownership status.

On June 21, 2010, Clark removed the properties from the Clark/Pandrea Trust by executing quitclaim deeds that 1) conveyed Parcel #1 from the Clark/Pandrea Trust to Clark and Pandrea giving each a one-half undivided interest as tenants in common, 2) conveyed Parcel #2 from the Clark/Pandrea Trust to Clark, and 3) conveyed the Clark Parcel from the Clark/Pandrea Trust to Clark. On July 19, 2011, Clark dissolved the Clark/Pandrea Trust. On July 19, 2011, after the complaint was filed in this case, Clark executed another deed, correcting the transfer of Parcel #2, giving Clark and Pandrea a one-half undivided interest as tenants in common. Thus, by July 19, 2011, the ownership status of Parcel #1, Parcel #2, and the Clark Parcel was the same as it was prior to the creation of the Clark/Pandrea Trust.

Pandrea filed a complaint on May 11, 2011, and subsequently filed an amended complaint on September 23, 2011. Pandrea alleges two causes of action. First, Pandrea seeks "Partition," as follows:

17. Pandrea desires to terminate the tenancy in common with the Defendant(s) according to the respective rights of each tenant in common. There are no other tenants in common or any other owners of the Property except for Pandrea and the Defendant(s).

18. Given the inherent, natural characteristics of the Property, a physical partition cannot be made without great prejudice to the owners, and thus a partition by sale is appropriate.

(Amended Complaint, p.4.) Pandrea also seeks an "accounting" of "the proceeds of the Clark/Pandrea Trust as the assets of said Trust," because "[Clark] has unilaterally retained or exercised dominion over assets properly belonging to the Clark/Pandrea Trust and has not made an accounting to Pandrea." (Amended Complaint, pp.4-5, ¶¶20-23.) Clark also filed two counterclaims seeking "partition" and an "accounting." (Amended Answer, pp.5-8.) Clark similarly wants to "terminate the tenancy in common with Pandrea" (Amended Complaint, p.7, ¶3.14) and alleges that "Pandrea has unilaterally retained or exercised dominion over assets properly belonging to the Clark/Pandrea Trust, and has not made and accounting to Clark" (Amended Answer, p.8, ¶ 4.2.).

The parties do not dispute that they are tenants in common of Parcels #1 and #2, or that Clark owns the Clark Parcel. The parties both seek partition and both object to the sale of Parcel #1 and Parcel #2. The parties do not dispute that Pandrea expended funds to improve the properties by adding a well and creating a tree farm that reduced property taxes. The parties do not dispute that Pandrea expended funds to maintain the properties by paying the property taxes on Parcels #1 and #2. The dispute between the

parties involves the amount of reimbursement for Pandrea's expenditures, and whether the amount expended on the remodel of a log home on Parcel #1 improved the property.

This Court has reviewed the evidence presented, particularly the expert opinion and report of Susan Metzger (Plaintiff's Exhibits 31 & 32) and hereby finds that the fair market value of Parcel's #1 and #2 combined is between \$100,000 and \$130,000. (Plaintiff's Exhibits #1 and #2). However, the parties did not present sufficient evidence on the value of Parcel #1 individually or Parcel #2 individually.

Based on the evidence presented, however, this Court finds that Pandrea made the following expenditures to improve and maintain Parcels #1 and #2 during the period that the parcels were settled in the Clark/Pandrea Trust:

1. Pandrea expended \$2,371.36 to drill a well that provides fire protection and irrigates the tree farm on Parcels #1 and #2. (Plaintiff's Exhibits #12 and #13).
2. Pandrea expended \$4,818.23 to develop a tree farm on Parcel #1 and Parcel #2 that provided a property tax reduction. (Plaintiff's Exhibits #16 and #17).
3. Pandrea expended \$422.50 for survey work in 2002. (Plaintiff's Exhibit #18).
4. Pandrea expended \$5,401.20, \$1,673.38, and \$62.45 to pay the property taxes on Parcels #1 and #2 (Plaintiff's Exhibits 6, 7, 8, 9.)

This Court also finds that the following expenditures claimed by Pandrea will not be considered for purposes of reimbursement because 1) there is insufficient evidence to find that Pandrea made the expenditures for the purpose of maintaining and improving the properties or that the Clark/Pandrea Trust either benefitted from the

expenditures or suffered from the debt incurred, or 2) the expenditure was incurred for the purpose of this litigation and is therefore a cost as per I.R.C.P. 54(d):

1. Loan of \$90,000 from Pandrea that Clark could pay off her debts and purchase Parcel #2.
2. Expenditure of \$84,750 by Pandrea's son for labor and materials as per a materialman's lien (I.C. §§ 54-5205(p) and 5208 and 45-501).¹
3. \$227,425 creditor judgment against Pandrea.
4. Pandrea's expenditure of \$1,198.25 for life insurance of which the Clark/Pandrea Trust was the beneficiary (Plaintiff's Exhibits 10 & 11).
5. Pandrea's expenses to Miller & Associates in 1990 for "field work" (Exhibit 19).
6. Pandrea's expenses to Lukins & Annis for trespass claim and trust formation. (Plaintiff's Exhibits 20, 21, 31 & 32).
7. Pandrea's expenses of \$1,000 for appraisals used to value the properties for purposes of this litigation (Plaintiff's Exhibits 1 & 2).

Regarding the remodel of the log home on Parcel #1, the parties do not dispute that Pandrea expended \$18,380.63 to renovate a log home on Parcel #1 (Plaintiff's Exhibits #14 and #15). However, Clark claims that the log home renovation did not improve Parcel #1 because the remodel sacrificed the historical condition of the log home. While this Court certainly appreciates the importance of family memories and the nostalgic feeling of the place, the evidence presented via Plaintiff's Exhibit 28 clearly shows that the remodel resulted in a residence in a more habitable condition than the previous log home. Additionally, while Clark argues that she was unaware of the remodel and therefore did not, as a tenant in common, consent to the remodel,

¹ Notably, Pandrea's son is not a party to this action and may recover on any valid lien as per Idaho's materialman's lien statutes or by initiating a breach of contract or collection action against Pandrea or Clark. This Court, therefore, will not consider any claim on behalf of Pandrea's son.

testimony and photographic evidence persuades this Court to find that Clark was aware of the log home renovation.

Finally, the parties presented evidence that Clark also made expenditures to benefit the property, which include payment of property taxes, purchase of an element, and contribution to obtaining a water right (Plaintiff's Exhibits 31 & 32; Defendant's Exhibits JJ, KK). The parties appear to agree that this is the extent of Clark's expenditures for the benefit of the properties, and this Court confirms the parties' agreement that Clark expended \$312.66.

II. CONCLUSIONS OF LAW

Based on the above findings of fact, this Court hereby enters the following conclusions of law:

Idaho Code § 6-501 allows for the partition of property, and provides that a "forced sale of the property is only appropriate if another partition cannot be made without great prejudice to the owners." The parties desire that this Court not order a forced sale of the property because neither desires to be dispossessed of their family property, and because neither could obtain the properties either as separate parcels or individual parcels through the bidding/sale process. Instead, the parties argue that partition can be made without prejudicing either Pandrea or Clark.

Clark advocates for dividing the parcels into Parcel #1 and Parcel #2, with Pandrea receiving Parcel #1 including the log home, out buildings, improvements, and the majority of the tree farm, and Clark receiving Parcel #2, without paying for reimbursement of any of Pandrea's expenses. While this resolution would put the parties in the same position they were in prior to the formation of the Clark/Pandrea

Trust, this resolution does not resolve the issue of reimbursement to Pandrea for the expenses she incurred improving and maintaining the properties. Therefore, this Court will not adopt Clark's position.

Pandrea's proposed resolution is better supported by the evidence and would lead to a more equitable partition. Pandrea advocates for dividing the property into two parcels, with Clark receiving 9 acres that is contiguous to the Clark Parcel, and Pandrea receiving 11 acres including the log home, the out buildings, and other improvements, as well as the tree farm.

Such a division is the most equitable resolution. Partitioning the properties into eleven acre and nine acre parcels allows Pandrea to retain her original five acre parcel (Parcel #1) and the improvements that she expended her individual funds to make. As found above, Pandrea expended money on a well, irrigation, the log home and outbuildings, and the tree farm amounting to a total of \$25,570.22 and Pandrea should retain the benefit of her expenditures.²

This division, however, does not account for all the expenditures made by the parties. Pandrea expended \$422.50 in survey work on the properties in 2002 and she paid \$7,137.50 in property taxes for both Parcel's #1 and #2. Clark also expended \$312.66 on the properties for payment of property taxes after 1991, as well as additional monies for an "element" and water rights (Exhibits 31 and 32). However, given that Pandrea also benefitted from using the property during the period and had an obligation

² While Pandrea presented evidence that she created the tree farm for the purpose of reducing the property taxes on both properties and that in order to continue at the same property tax rate the tree farm must remain on at least eleven acres, this Court did not consider the maintenance of a tax break in making its decision. Instead, because Pandrea expended funds to create and improve Parcels #1 and #2 by adding the tree farm, this Court concludes that retaining the whole of her investment by awarding Pandrea the tree farm to be the most equitable division of the properties.

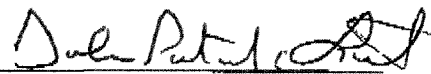
as a tenant in common to pay the property taxes this Court concludes dividing the properties into a eleven acre and nine acre parcels accounts for all the expenditures made by Pandrea and Clark. Therefore, no additional monies must be paid.

III. ORDER

IT IS HEREBY ORDERED that eleven acres of the property at issue as identified in Plaintiff's Exhibit 34 and Defendant's Exhibit A is hereby awarded to Pandrea. The eleven acres shall include the entirety of Parcel #1, including the log home, well, and outbuildings, and as much of the tree farm as can be included in the eleven acres. IT IS FURTHER ORDERED that nine acres of the property at issue as identified in Plaintiff's Exhibit 34 and Defendant's Exhibit A is hereby awarded to Clark. The nine acres shall include all land that is adjacent and contiguous to the Clark Parcel and access to the nine acres and Clark Parcel shall be by easement. IT IS FURTHER ORDERED that the parties do not owe any additional monies for reimbursement.

IT IS FURTHER ORDERED that Pandrea shall submit to this Court for its approval a legal description of the division of the properties as described above, including a description of the above mentioned access easement. Pandrea shall also submit a final judgment as per I.R.C.P. 54(a) and (b).

DATED this 16th day of August, 2012.


John Patrick Luster
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing DECISION RE: COURT TRIAL was sent by U.S. Mail, postage prepaid, sent by facsimile transmission, or sent by interoffice mail on the 15th day of August, 2012 to the following:

Douglas S. Marfice
Theron J. De Smet
RAMSDEN & LYONS
PO Box 1336
Coeur d'Alene, ID 83816
Fax: (208) 664-5884 ✓

Richard K. Kuck
PO Box 1320
Coeur d'Alene, ID 83816
Fax: (208) 667-3379 ✓

CLIFFORD T. HAYES
Clerk of the District Court

By: 

Deputy Clerk

1 Richard K. Kuck, ISB No.3875
2 RICHARD K. KUCK, P.C.
3 P.O. Box 1320
4 408 Sherman Avenue, Suite 205
5 Coeur d'Alene, ID 83816-1320
6 Tel: 208-667-3600
7 Fax: 208-667-3379
8 Attorney for the Defendant

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2012 NOV 20 P 4:13

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

9 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE

10 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

11 MARY E. PANDREA, a single woman,)

12 Plaintiff,)

CASE NO. CV-2011-835

13 vs.)

DEFENDANT'S OBJECTION TO
PROPOSED JUDGMENT AND DECREE
OF PARTITION AND REQUEST FOR
HEARING

14 KARI A. CLARK, a single woman)
15 individual and as Trustee of the Kari A.)
16 Clark Trust u/a Dated June 21, 2010;)

17 Defendant.)

18 KARI A. CLARK, a single woman)
19 individual and as Trustee of the Kari A.)
20 Clark and Mary A. Pandrea Revocable Trust,))
21 u/a April 9, 2002 and Dated June 21, 2010))
22 and as Trustee of the Kari A.)

23 Counter-claimant,)

24 vs.)

25 MARY E. PANDREA, a single woman))
26 individually and as Trustee of the Kari A.)
27 Clark and Mary A. Pandrea Revocable Trust,))
28 u/a April 9, 2002)

Counter-defendant)

COMES NOW the Defendant/Counter-claimant, KARI A. CLARK, and
respectfully enters her objection to the entry of Plaintiff/Counter-Defendant Mary E.

DEFENDANT'S OBJECTION TO PROPOSED JUDGMENT AND DECREE
OF PARTITION AND REQUEST FOR HEARING - 1

1 Pandrea's proposed Judgment and Decree of Partition and requests that the Court schedule
2 a hearing on her objection.

3 The Plaintiff, Mary E. Pandrea, served her Proposed Judgment and Decree of
4 Partition on the Defendant on November 20, 2012 and it appears from the record of survey
5 that she has proposed for adoption by the Court that she has allocated to herself all of the
6 bottom-land and all of the hundreds of feet of waterfront associated with the historical
7 Parcels I and II.

9 If the partition proposed by Mary E. Pandrea does allocate all of the desirable
10 portions of the parcels to be partitioned to herself, (i.e. the flat-land and waterfront), such
11 an allocation would be extremely prejudicial to Defendant Kari A. Clark not only in terms
12 of the desirability and usefulness of the property, but also in terms of the property's fair
13 market value.

15 It appears from the partition proposed by Mary E. Pandrea that the property
16 allocated to Kari A. Clark would consist either entirely, or virtually entirely, of steep
17 forested terrain and cliffs.

18 The partition proposed by Mary E. Pandrea through her proposed Judgment and
19 Decree of Partition also runs exactly contrary to the partition which she proposed to the
20 Court following trial and which the Court considered in rendering its decision.

22 The Defendant respectfully requests that the Court schedule a hearing on her
23 objection to the Plaintiff's Proposed Judgment and Decree of Partition.

24 DATED this 20th day of November 2012

25 RICHARD K. KUCK, PLLC

26 
27 Richard K. Kuck

28 Attorney for Defendant

DEFENDANT'S OBJECTION TO PROPOSED JUDGMENT AND DECREE
OF PARTITION AND REQUEST FOR HEARING - 2

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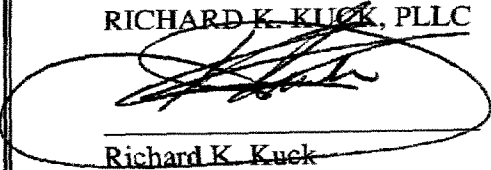
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of November 2012 I caused to be served a true and correct copy of the foregoing document, by the method indicated below, and addressed to the following:

Douglas S. Marfice
Theron J. DeSmet
RANSDON & LYONS, LLP
P.O. Box 1336
Coeur d' Alene, ID 83816-1336

☐ U.S. Mail, postage prepaid.
☒ Fax transmission (208) 664-5884
☐ Hand delivered.
☐ Overnight mail

RICHARD K. KUCK, PLLC


Richard K. Kuck
Attorney for Defendant

DEFENDANT'S OBJECTION TO PROPOSED JUDGMENT AND DECREE
OF PARTITION AND REQUEST FOR HEARING - 3

Description		BONNER CV 2011-835 Pandrea vs Clark 20121121 Status Conference	
		Judge John Patrick Luster Clerk Kathy Booth Court Reporter Keri Veare PA Theron DeSmet DA Richard Kuck	
Date	11/21/2012	Location	1K-COURTROOM1
Time	Speaker	Note	
03:15:39 PM	J	Calls case - PL present with PA DeSmet and DA present. We have this case set for a status conference. Trial was in August and the court entered a decision. The court has not entered the proposed judgment and degree submitted by DA. PA has filed an objection. The proposed judgment appears to be source of confusion.	
03:17:16 PM	DA	The status conference was set by the court, I think, to keep the parties moving re: survey. There were general guidelines given to PL re: survey and types of property re: partition. My client objects to the proposed by PA as PL gets all the river front and flat land and gives my client all the cliffs and I don't think that was what the court considered. My client has an objection to the proposed partition. Mr. Marfice was unaware of the survey 10 days ago. I ask the court to set this for a hearing for about an hour.	
03:19:47 PM	PA	Based on the generalities of the order my client had the survey done as directed. Given the specific areas given to her it seemed like it was the feasible way to get the allocation done. I agree with DA that this should be set for a hearing. We can try to figure out something today if the court is agreeable with that.	
03:20:43 PM	J	I don't know this is the type of situation incumbent on Ms. Clark to file a motion. I haven't signed the judgment yet. I wasn't trying to get 2 separate parcels of equal value. When I looked at the survey I pretty much adopted the proposal Ms. Pandrea submitted in EX A but EX A and the final survey do not appear to be that contemplated by the court. EX A partitioned some waterfront to Clark and the proposed judgment didn't a lot any of it. We should characterize this as a hearing to clarify final judgment. I don't think the judgment is being challenged just the partition.	
03:23:07 PM	DA	Given the Court's comments I don't know if the court would be inclined to order mediation - it may be fruitful in derailing the court's comments. If we can set this out to the middle of January for an hour or two.	
0301			

03:24:47 PM	J	The court is not a surveyor and I cannot sit down and draw out a map as to how the property should be surveyed however the survey doesn't provide for any river front access to both parties. JANUARY 14, 2013 3:00 PM FOR 2 HOUR HEARING.
03:26:53 PM		
03:26:53 PM	End	

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0302

11-21-12 STATUS CONFERENCE
 PANDREA v CLARK, Case No. CV-2011-835

STATE OF IDAHO
 COUNTY OF KOOTENAI
 FILED: 188

TO: First Judicial District Court Clerk
 Civil Division *Bonner County*
 PO Box 9000
 Coeur d'Alene, Idaho 83816

2012 DEC -6 AM 11:17 880 02

CLERK DISTRICT COURT

MARY E. PANDREA, a single
 person,

Plaintiff,

vs.

KARI A. CLARK, a single
 person and as trustee of the
 KARI A. CLARK TRUST U/A (June
 21, 2010),

Defendant.

Case No. CV-2011-835

DEPUTY

NOTICE OF TRANSCRIPT PREPARATION

Please be advised a transcript entitled "Status Conference" dated 11-21-12 in the above-entitled matter has been prepared. The Original Transcript will be held by the Official Court Reporter until such time as requested to be lodged with the District Court.

A Certified Copy of said transcript has been delivered to:

Mary Pandrea
 4687 Upper Pack River Road
 Sandpoint, Idaho 83864

If additional copies need to be ordered or if you have any questions, please contact me at 208-446-1116.

Keri Veare

Date *12/3/12*

Keri Veare
 Official Court Reporter

cc: Mary Pandrea, Ordering Party
 Counsel for the Parties

0303

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

Attorneys for Plaintiff

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

Case No. CV-11-835

**AFFIDAVIT OF JOHN
MARQUETTE IN SUPPORT OF
PLAINTIFF'S PROPOSED
JUDGMENT**

STATE OF IDAHO)
)ss.
County of Bonner)

I, John Marquette, having been first duly sworn upon oath, deposes and says:

1. I have personal knowledge of the matters set forth herein and I am competent to testify to the same.

2. I am employed as a surveyor for J.R.S. Surveying, Inc. I am a licensed surveyor in the State of Idaho and have been so licensed since 1995.

3. I was hired by Mary Pandrea to survey a nine acre parcel of property. It has been represented to me that the nine acre parcel I was hired to survey was a portion of a larger property composed of approximately twenty acres (collectively the "Property").

4. I reviewed the Court's Decision Re: Court Trial, entered on August 16, 2012, and the directives of the Court contained therein and specifically, the directives that Mary Pandrea is awarded eleven acres of the Property, which is to include "*the entirety of Parcel #1, including the log home, well, and outbuildings, and as much of the tree farm as can be included in the eleven acres ...*" and that nine acres is awarded to Kari Clark, which "*shall include all land that is adjacent and contiguous to the Clark Parcel and access to the nine acres and Clark Parcel shall be by easement.*"

5. On August 31, 2012, I sent one of my field crews to the Property to begin locating the corners and gathering information for the survey. In late April of 2012, I personally visited portions of the Property at issue, including the tree farm area of the Property.

6. On September 17, 2012, I prepared an initial survey of the Property creating one, nine acre parcel, and based upon representations made to me, also creating one, approximate eleven acre parcel. A true and correct copy of the initial survey is attached as **Exhibit A**. It has been represented to me that this initial survey was attached to Plaintiff's Proposed Judgment filed on November 11, 2012.

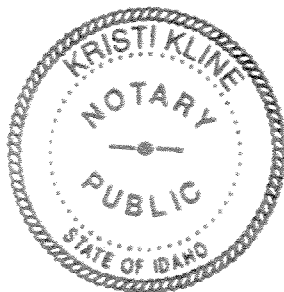
7. It has been represented to me that the Court has made further specific directives regarding division of the Property. Ms. Pandrea has related said directives to me and based upon such, I have re-evaluated my initial survey.


8. I have prepared a second survey creating one, (approximate) nine acre parcel, and based upon representations made to me, also creating one, eleven acre parcel. I use the term "approximate nine acre parcel" because I have not been able to determine the precise location of the boundary of the nine acre parcel along the Pack River. A true and correct copy of the second survey is set forth in attached **Exhibit B**.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


John Marquette

SUBSCRIBED AND SWORN before me this 9TH day of January, 2013.





Notary Public for Idaho
Residing at: BOUNDARY COUNTY, ID
My commission expires: 9/11/2014

CERTIFICATE OF SERVICE

I hereby certify that on the 9 day of January, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 667-3379


Shannon James

RECORD OF SURVEY

IN THE
SE1/4 OF SECTION 11
TOWNSHIP 59 NORTH, RANGE 2 WEST, B.M.
BONNER COUNTY, IDAHO
FOR
MARY PANDREA

NOTES

- 1) The positions for corner monuments not found were computed by Great Boundary method.
- 2) The 9.00-acre parcel shown herein was created by a court decision, Case No. CV-2011-835.

PROPERTY DESCRIPTION- 9.00 ACRE TRACT

A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner County, Idaho, being a portion of that parcel described in Instrument No. 326781; more particularly described as follows:

Beginning at a 5/8" rebar and plastic cap stamped PLS 7877, on the north line of said SE1/4, which is N 89°58'35" E, 175.00 feet from the northwest corner of the SE1/4; thence, continuing along said north line N 89°58'35" E, 839.28 feet to a 1" diameter pipe; thence, continuing S 89°58'35" W, 10.41 feet to the centerline of a creek; thence, leaving said north line and along said centerline the following: Thence (B) courses: S 53°38'47" W, 103.74 feet; thence S 20°42'32" W, 58.41 feet; thence S 48°21'11" W, 41.15 feet; thence, leaving said centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar; thence, continuing S 00°00'13" E, 116.74 feet to a 5/8" rebar; thence N 81°41'17" W, 122.60 feet to a computed point; thence S 04°14'29" E, 142.09 feet to a computed point; thence S 59°40'43" E, 68.17 feet to a 5/8" rebar; thence S 59°30'23" E, 205.36 feet to a 1" diameter pipe; thence S 21°14'18" E, 244.81 feet to a computed point; thence S 21°21'34" E, 163.05 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence N 68°38'47" W, 486.25 feet to a 5/8" rebar; thence N 32°26'11" W, 922.50 feet to the POINT OF BEGINNING, encompassing an area of 9.00 acres.

TOGETHER WITH an easement for access and utilities, Thirty (30) feet in width as described in Instrument No. 170365.

LEGEND

- FOUND 8" BRASS CAP- PL 3816
- FOUND 5/8" REBAR
- ▲ POINT- 1" DIAMETER PIPE
- ⊙ SET 5/8" REBAR AND PLASTIC CAP- PLS 7877
- COMPUTED POINT
- (R) RECORD BEARING-DISTANCE PLX. COS. INST. #500000

BASIS OF BEARINGS

Bearings are taken on the bearing of the north line of the SE1/4 of Section 11, per Record of Survey, Instrument No. 326781, as follows:

SURVEYOR'S CERTIFICATION

I, John Daniel Wardette, Idaho Land Surveyor No. 7877, do hereby certify that the plan hereon is a true and correct representation of a survey made by me or under my direct supervision in compliance with the laws of the State of Idaho Idaho Code 31-8705, 1973 and Idaho Code 55-1805 through 1906 and accepted methods and procedures of surveying.



COUNTY RECORDER

This Record of Survey was filed for record in the office of the Recorder of Boundary County, Idaho, at the request of J.R.S. Surveying, Inc. this _____ day of _____, 2011, at _____ m. and did, recorded in Book _____ of Survey - Page _____, as Instrument No. _____.

County Recorder

Deputy Recorder

J.R.S. SURVEYING, INC.

PO BOX 8099-6476, MAIN
BONNERS FERRY, ID 83805
(208) 287-7505

RECORD OF SURVEY

FOR: MARY PANDREA
BY: JRM
DATE: 09-19-2012
SHEET 1 OF 1

0307

Exhibit A
Page 1 of 1

NOTES

1. The survey was made by J.R.S. Surveying, Inc. on 10/10/11.
 2. The survey was made by J.R.S. Surveying, Inc. on 10/10/11.
 3. The survey was made by J.R.S. Surveying, Inc. on 10/10/11.

RECORD OF SURVEY IN THE SE1/4 OF SECTION 11 TOWNSHIP 59 NORTH, RANGE 2 WEST, B.M. BONNER COUNTY, IDAHO FOR MARY PANDREA

PROPERTY DESCRIPTION- 9.00 ACRE TRACT

A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11), Township Five-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner County, Idaho, being a portion of that parcel described in Instrument No. 350781, more particularly described as follows:

Beginning at a 4" x 6" rebar and plastic cap (thence N 85° 26' 15" E, 175.00 feet to the northeast corner of the SE1/4; thence, continuing along said north line N 85° 26' 15" E, 175.00 feet to a 2" diameter pipe; thence, continuing S 69° 36' 30" W, 10.43 feet to the cornerline of a creek; thence, leaving said north line and along said centerline the following Three (3) courses: N 85° 19' 47" W, 103.72 feet; thence S 59° 45' 12" W, 83.45 feet; thence S 45° 11' 14" W, 41.15 feet; thence, leaving said centerline S 00° 00' 13" E, 16.02 feet to a 5/8" rebar; thence, continuing S 00° 00' 13" E, 116.74 feet to a 5/8" rebar; thence N 81° 41' 17" W, 122.00 feet to a computed point; thence S 03° 14' 20" E, 142.00 feet to a computed point; thence S 89° 00' 00" E, 86.17 feet to a 4" x 6" rebar; thence S 50° 30' 28" E, 255.36 feet to a 2" diameter pipe; thence S 21° 14' 18" E, 144.81 feet to a computed point; thence S 21° 11' 34" E, 163.05 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence N 68° 38' 47" W, 486.25 feet to a 5/8" rebar; thence N 42° 26' 13" W, 412.40 feet to the RECORDED EASEMENT, encompassing an area of 9.00 acres.

TOGETHER WITH an easement for access and utilities. Thirty (30) feet in width as described in Instrument No. 170365.

LEGEND

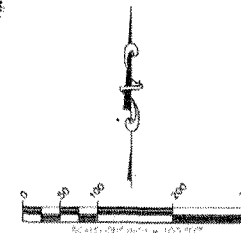
- 4" x 6" REBAR AND PLASTIC CAP
- 2" DIA. PIPE
- ▲ 5/8" DIA. REBAR
- ④ 4" x 6" REBAR AND PLASTIC CAP
- COMPUTED POINT
- (R) RECORDED EASEMENT PER R.O.

BASIS OF BEARINGS

Bearings were found on the survey of the north line of the SE1/4 of Section 11, per J. 979 Survey by Richard J. 1947.

SURVEYOR'S CERTIFICATION

I, J.R.S. Surveying, Inc., do hereby certify that this survey was made by J.R.S. Surveying, Inc. on 10/10/11, and that the same is a true and correct copy of the original survey as shown on the plan and as recorded in the public records of Bonner County, Idaho.



COUNTY RECORDER

This Record of Survey was filed for record in the public records of Bonner County, Idaho, on 10/10/11, and is hereby certified to be a true and correct copy of the original survey as shown on the plan and as recorded in the public records of Bonner County, Idaho.

J.R.S. SURVEYING, INC.	
PO BOX 8059-6476 MATH	
BONNERS FERRY, ID 83805	
(208) 267-7505	
RECORD OF SURVEY	
FOR MARY PANDREA	SECTION NO. 1
OWN BY JRM	10-10-2011
1/4 SEC. 11, TWP. 59, R. 2	SHEET 1 OF 1
BONNER COUNTY, IDAHO	JOB NO. 14-00

0308

Description	BONNER CV 2011-835 Pandrea vs Clark 20130114 Motion re: Survey Judge John Patrick Luster Clerk Kathy Booth Court Reporter Keri Veare PA Theron DeSmet DA Richard Kuck	
Date	1/14/2013	Location 1K-COURTROOM1
Time	Speaker	Note
03:06:07 PM	J	Calls case - PA DeSmet, DA Kuck present with PI present
03:07:03 PM	DA	My client is delayed due to weather. We'd like to make a brief opening statement. Late last week PL submitted another map and we'll be working off that map proposal
03:07:52 PM	PA	I agree
03:08:07 PM	J	I don't care who goes first. I made a decision pretty much accepting a proposal and when the judgment arrived it was not as proposed. Proceed
03:08:45 PM	PA	Since the last hearing it became apparent from the court's reaction that the survey done was not done as the court desired. The court intended Ms. Clark to have access to the river. We went back to the surveyor and requested that he do an new survey and allocate some river frontage to Ms. Clark. He did that and this is the new survey to provide Ms. Clark with that river front access. My client made an illustration for the court to use - illustrative purposes only. Describes illustration. The directive was to give Ms. Pandrea as much of the tree farm as it possibly could. There are issues with bank stabilization. Ms. Pandrea has taken it upon herself to discuss this with the army corps of engineers to use structural use to stop erosion.
03:12:50 PM	J	I know that your client submitted an affidavit re: river erosion. This was not initially discussed at trial, correct?
03:13:12 PM	PA	That is probably true. Ms. Pandrea has taken the initiative to protect the property and intends to do so and is working to protect the property. The survey proposed does that. The other proposition is that we'd like the access to come up across the back road. Counsel will likely argue that this is a "goat trail". I disagree. They are currently doing logging and it is being driven. DA has pictures of the road he'll produce today. This provides Clark with river access and Pandrea to keep most of the tree farm and Clark access to her property and grave site. We ask the court to accept this second survey. Provides court with DA's photos. Picture #1 is where the access road turns off the pavement. If you look on the google photo you can see in the corner where that

		<p>road takes off. Of equal importance is that there is an ongoing family feud. It's a feud between extended parts of the family.</p> <p>The survey proposed helps separate the parties and from interacting and causing other problems.</p> <p>I spoke with John Marquet and the acreage's are approximately 11 and 9 acres. Moving the line would cut out a large portion of the tree farm and this is why we selected the line as is.</p>
<u>03:19:59 PM</u>	DA	<p>I suggest that the theme is 2-D vs 3-D. If this were flat land it might make more sense. Look at photograph #12. That's what the property looks like and this partition puts Clark on the rock and gives Pandrea all the bottom land which gives Clark no access to the river at all or in this case she'd need to come down some serious topography to get to the river. Submits copy of topo map of the area. The proposed partition to Clark is a very steep area providing no meaningful access to the river. You could roll a rock down to the river but not walk or drive to it. The proposal for Pandrea is very flat and very open. I asked for Terry Boyd-Davis to come here today re: photos. There are no trees in this area. The area on the illustration showing trees is not heavily treed but open prairie to a large degree. She indicates she intended to plant trees there in 2013. From a tree farm perspective an acre is an acre. The illustration is very pretty but doesn't show the topo lines or show what the property is really like. The white portion of the illustration is Miken, parcel #9.</p> <p>The difficulty with the access lane is that it is a very steep two wheel track. You can't get an ATV from the top to parcel 2. It's very steep and totally undeveloped. Both parties should have an easement to the grave site. From the gate to the water front split 9 and 11 acres should be the split. We would agree that the roadway the family used is not identical to the easement provided to the Miken property - Clark should get access per the easement to the waterfront and not condemn one of the parties to the hillside.</p>
<u>03:31:59 PM</u>	PA	I object. We're using the photos for illustrative purposes. I don't know that the record needs to be embellished any more.
<u>03:32:33 PM</u>	DA	I ask the court to be skeptical of a couple of things in Pandrea's affidavit. She's advocating being awarded all the flat land. Photo 13 (2nd 13) page 12- shows a beach area along parcel 1 that is a sandy beach Pandrea will have regardless of how the court rules today. She has beautiful waterfront. Clark did have waterfront and Pandrea would like to deprive her of it. Page #3 picture 4 is a photo take on top of the hill showing across the plain take September 1, 2012.
<u>03:35:12 PM</u>	J	Overrule objection. If we can't resolve this the court will direct 3 referees per statute.

03:35:43 PM	DA	Mary said in her affidavit that she should be awarded the bottom land because after she found out the court would award Keri some bottom land she contacted the army corps as to doing rif-raf and that Keri didn't have the resources to do it. If pl does, she embezzled money from the family and the family is trying to recover that. Calls #1
03:38:02 PM	C	Swears
03:38:27 PM	#1	Terry Boyd Davis, Hayden. I am the niece of both pl and def. My mother was their sister Ethel. My mother is the PR of the estate of Ethel, their mother. I have enjoyed this property since I was a small child. I am a paralegal for Macomber law in CDA.
03:40:10 PM	DA	Object to the admission of exhibits. They were to be used for illustrative purposes. I didn't realize we were opening the door to take evidence.
03:40:37 PM	DA	I didn't see this (survey) until Thursday. The court indicated it wouldn't adopt the other one and this proposal opens the door to evidentiary presentation or context and texture as to adoption of this survey.
03:41:20 PM	J	This is not a proposal to reconsider the court's decision. For illustrative purposes the exhibits might be helpful to the court and need not be admitted. Proceed so I can put the pictures and evidence of the properties together.
03:42:06 PM	PA	I understand that we were limiting her testimony to foundation and not embellish the record to tangential.
03:42:46 PM	DA	There was a mention in PA's opening statement to family squabbles.
03:42:59 PM	J	Go ahead
03:43:04 PM	DA	We can all agree that there is a family feud. I'm afraid testimony will open Pandora's box. Keeping the parties away from each other is in the best interest of all. I ask that her testimony be limited in this regard.
03:45:49 PM	#1	Reviews photos (not marked) I took the photos September 1, 2012 specifically to be able to show what the property looks like from various angles. I started the photos standing on Upper Pack River Rd. and began a walk toward the grave. I went up the road, around on a trail and then the trail where the building are.
03:47:43 PM	PA	There are numbers of the diagram from where she indicates she took the pictures. That should be sufficient.
03:48:05 PM	DA	If we have a stipulation that the numbers on the photos and the numbers on the key correlate then we don't need to go there.
03:48:43 PM	J	I'm fine with 1-4 but it would be helpful to have the witness start at

0311

		#5.
03:50:45 PM	#1	Page five - shows a gate - #6 is at the gate
03:51:47 PM	PA	Objection
03:51:50 PM	J	Overruled
03:51:52 PM	#1	describes where photos were taken and items in photo #7 is the only access to the beach area from the north property and it shows what the beach is. There are no trees planted at the canopy area. The tree farm is just above the Miken family parcel
03:55:48 PM	PA	Objection
03:55:50 PM	J	Overruled.
03:55:55 PM	#1	Describes balance of photos. The easement was done after my grandfather died and it was the surveyor who
03:57:51 PM	PA	Objection
03:57:53 PM	J	Sustained
03:57:57 PM	#1	The photo showing kids walking down a road is not a picture of the easement.
03:58:28 PM	PA	Objection
03:58:31 PM	J	Sustained
03:58:34 PM	#1	I am familiar with where the buildings are located.
03:59:17 PM	PA	Objection - she's not a surveyor.
03:59:36 PM	DA	The kids with tubes are not on the same area of where they surveyor marked out the easement.
04:01:26 PM	#1	Marks on survey where I believe the buildings are located. Continues describing photos of property. The first photo on page #12 was not taken 9/1/12. It's an older photo I had. I may have taken it, I don't know, but I am familiar with the area. It truly and accurately depicts the area shows on survey where the photo was taken.
04:05:34 PM	PA	Objection
04:05:37 PM	J	Overruled
04:05:39 PM	#1	This shows both the low land and high land. The beach area is on parcel #1. (indicates location on survey map).
04:07:59 PM	PA	Objection
04:08:25 PM	J	Go ahead
04:08:30 PM	#1	I have hiked down from the grave site toward the waterfront but never reached the water front because you can't reach it. It's full of brush and it's a gully and there is no beach access there at all.
04:10:23 PM	XE	None

C 2 4 0

04:10:33 PM	DA	Nothing additional
04:10:34 PM		
04:10:41 PM	PA	Calls #2 to discuss the proposed access in the northern area
04:10:55 PM	C	Swears
04:10:57 PM	#2	<p>Mary Pandrea - I have walked along the back access road - a week ago yesterday. It's been recently plowed because there is going to be a logging operation in the near future. I talked to the men plowing it and they said they were working for the Idaho Forest Industry. You could access it with a 4 X 4 now due to the snow and in the summer you can take any vehicle up there, and I have.</p> <p>The logging road is a road built by my father before building the other one. It's steep so he abandoned it and began using the new one in the 50's. It's still usable and my caretaker uses that road with his 4-wheeler. I have been in that area recently. You can access that area and I have done it recently. There is about 40-50' where you can access through it before it becomes steep. You can access the grave site on the old logging road.</p> <p>The roadway goes within 25' of my front door and there has been a lot of confrontation especially by the Boy family and one of their children tried to knock me over this summer. I've been putting money in this property for 20 years and I intend to live peacefully there for at least 10 more years and I can't if the Boyd family continues to go through there and harass me. Access easement above would alleviate confrontation.</p>
04:16:52 PM	XE #2	<p>I wouldn't go by the line that Terry Boyd-Davis drew. There are trees almost to the canvas. There is a mountain there but also about 50' of flat land that you can enjoy. I'm proposing that the line through there would give her the acreage. The access road I want her to use doesn't go to parcel 1 but off the county road. The road easement to the grave site dates back to 1971 and does not touch parcel 1. You can take a 4-wheeler to the river front. I can't give the exact footage from the grave site down to the river. I would not say that it's more than 1/4 mile. I've never measured it and I don't know how many feet it is. I can walk it in less than 5 minutes.</p> <p>The banks have been washing away for years and Keri said she would break the trust 7 years ago and I couldn't do anything about it. Keri shows almost no interest in that property and the only money gone into it was mine. If I don't take care of it no one will.</p>
04:23:36 PM	J	Excused.
04:23:47 PM	DA	Recalls #1
04:23:52 PM	J	Still under oath.

<u>04:24:00 PM</u>	#1	I disagree with PI that it's a 5 minute walk to the water area. It's easy going down to the water and going uphill going back. I disagree with her saying you can go all the way to the river because you can't. I've never known anyone to drive an ATV down there - it's just not accessible - explains. The road is not cared for.
<u>04:25:36 PM</u>	J	Excused
<u>04:25:47 PM</u>	PA	Closing arguments?
<u>04:25:52 PM</u>	J	I'll let you both sum up. Is the grave site on a separate parcel distinct from Clark's independent parcel of property?
<u>04:26:34 PM</u>	PA	Yes. Closing argument
<u>04:29:28 PM</u>	DA	Closing argument
<u>04:42:48 PM</u>	PA	Rebuttal argument
<u>04:43:44 PM</u>	J	No exhibits have been formally admitted. I'll review the illustrative exhibits. I'll not reconsider the trial. I had adopted the proposal made by Ms. Pandrea but that was not consistent with the submitted proposed judgment. I'll make a decision and get something out in due course.
<u>04:45:12 PM</u>		
<u>04:45:12 PM</u>	End	

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FILED
JAN 15 2015
CLERK OF DISTRICT COURT
BOZEMAN, MONTANA

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
Individual and as Trustee of the Kari A.
Clark Trust u/a Dated June 21, 2010

Defendant.

CASE NO CV-2011-835

DECISION ON DEFENDANT'S
OBJECTION TO PROPOSED
JUDGMENT

KARI A. CLARK, a single woman
Individual and as Trustee of the Kari A.
Clark and Mary A. Pandrea Revocable
Trust u/a April 9, 2002 and dated June
21, 2010 and as Trustee of the Kari A.
Clark Trust u/a dated June 21, 2010,

Counter-claimant,

vs.

MARY E. PANDREA, a single woman,
Individually and as Trustee of the Kari A.
Clark and Mary A Pandrea Revocable
Trust u/a April 9, 2002

Counter-defendant

This case involves an unfortunate family dispute between two septuagenarian sisters over two parcels of real property along the Pack River.

The properties had been held as tenants in common but substantial differences between the parties led to an action to partition. After a trial before the Court a decision was rendered on August 16, 2012. In that decision the Court considered evidence of substantial improvements and financial contributions to the property by Pandrea and determined a partition in her favor would be appropriate. The Court concluded that Pandrea would be awarded eleven acres and that Clark would be awarded nine acres. The court directed Pandrea to prepare for approval by the Court an appropriate legal description.

Pandrea prepared a Judgment and Decree of Partition that included legal descriptions and a survey of the proposed partition. Clark objected to the proposed judgment and requested a hearing. The court conducted a hearing on January 14, 2013 and received testimony and illustrative exhibits regarding the physical layout and topography of the property.

It should be noted that the court has not been presented with any request by either party to reconsider the court opinion, but rather is being tasked with determining the appropriate partition of property consistent with the court's ruling.

The property is unique in that it is possessed of both intrinsic and extrinsic value. The land sits along the upper stretches of the Pack River in the scenic Selkirk Mountains of North Idaho and it is held dear by the family as the homestead of Harry and Edith Clark. Clark's objection is not based so much on the unequal allotment as to the manner of the proposed partition by Pandrea.

The proposed judgment provides a distribution to Pandrea of the desirable land along the river and the less desirable rugged hillside to Clark.

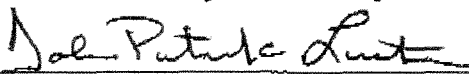
In its Decision Re: Court Trial the Court considered the proposals of each party in determining the appropriate reimbursement to Pandrea for the expenses she incurred improving and maintaining the properties. The Court found Pandrea's proposal, of dividing the properties into a nine acre and an eleven acre parcel, with Pandrea retaining the land including the log home, the out buildings, the tree farm and other improvements to be the most equitable. The court determined that a division consistent with that identified in Exhibit A which was referenced in Pandrea's post trial brief to be appropriate. The Court also ordered that access to the nine acres and the Clark Parcel shall be by easement and directed Pandrea to submit the legal description of the division including the access easement.

The proposed record of survey submitted for judgment by Pandrea varied significantly from the proposal adopted by the Court. The nine acres to be awarded to Clark under the submitted judgment included no river frontage. Exhibit A as adopted by the court included a reasonable amount of frontage upstream from the area of the tree farm. Additionally Pandrea's submission did not document an access easement but rather simply suggested access by way of a logging road from the county road. At the hearing on Clark's objection Pandrea expanded her proposal to include a minimal amount of frontage with questionable access due to the steep topography.

At the hearing Clark suggested that the frontage be expanded by drawing the boundary line between the eleven acre and nine acre parcels from the post at the corner of the family gravesite to the river bank in the area of the canopy structure. This division would allow both sisters to retain valuable river frontage while providing for Pandrea to retain her improvements. Most important; Clark's suggestion is consistent with the Court's ruling. Additionally Clark's parcel, as the dominant estate should enjoy easement access via the existing road across Pandrea's servient parcel.

It is hereby ordered that Clark shall prepare a survey and submit to this Court for its approval a legal description of the division of the properties as described above, including a description of the aforementioned easement. Clark shall also submit a final judgment as per I.C.R.P. 54(a) and (b).

Dated this 15th day of January, 2013



John Patrick Luster, District Judge

CERTIFICATE OF MAILING

I hereby certify that on the 18th day of January, 2013, I caused a true and correct copy of the Decision on Defendant's Objection to Proposed Judgment to be served upon the following person(s) in the following manner:

Douglas S. Marfice
PO Box 1336
Coeur D'Alene, Idaho 83816-1336

☒ U.S. Mail, Postage Prepaid

☐ Overnight Mail

☐ Hand Delivered

☐ Facsimile

☐ Courthouse Mail

☐ Other: _____

Shirley Bade
418 E Coeur d'Alene Ave
Coeur d'Alene, Idaho 83814

☒ U.S. Mail, Postage Prepaid


☐ Overnight Mail

☐ Hand Delivered

☐ Facsimile

☐ Courthouse Mail

☐ Other: _____


Deputy Clerk

1 Richard K. Kuck, ISB No.3875
2 RICHARD K. KUCK, P.C.
3 P.O. Box 1320
4 408 Sherman Avenue, Suite 205
5 Coeur d'Alene, ID 83816-1320
6 Tel: 208-667-3600
7 Fax: 208-667-3379
8 Attorney for the Defendant

9
10 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
11
12 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

13 MARY E. PANDREA, a single woman,)

14 Plaintiff,)

CASE NO. CV-11-835

15 vs.)

NOTICE OF SUBSTITUTION OF
COUNSEL

16 KARI A. CLARK, a single woman)
17 individual and as Trustee of the Kari A.)
18 Clark Trust u/a Dated June 21, 2010;)

19 Defendant.)

20 KARI A. CLARK, a single woman)
21 individual and as Trustee of the Kari A.)
22 Clark and Mary A. Pandrea Revocable Trust,))
23 u/a April 9, 2002 and Dated June 21, 2010))
24 and as Trustee of the Kari A.)
25 Clark Trust u/a Dated June 21, 2010,)

26 Counterclaimant,)

27 vs.)

28 MARY E. PANDREA, a single woman))
29 individually and as Trustee of the Kari A.)
30 Clark and Mary A. Pandrea Revocable Trust,))
31 u/a April 9, 2002)

32 TO: MARY A. PANDREA, PLAINTIFF, AND YOUR ATTORNEYS:

33 PLEASE TAKE NOTICE that Richard K. Kuck, RICHARD K. KUCK, PLLC
34 substitutes as counsel for the Defendant KARI A. CLARK, in the place of Attorney
35 SUBSTITUTION OF COUNSEL - 1

1 Shirley Bade.

2 PLEASE TAKE FURTHER NOTICE that all further papers or pleadings to be
3 served on the Defendant, exclusive of original process, are to be served upon the
4 undersigned attorney at P.O. Box 1320, Coeur d'Alene, Idaho, 83816-1320.

5 DATED this 11th day of May 2012.

7 SUBSTITUTING ATTORNEY

WITHDRAWING ATTORNEY

9 Richard K. Kuck, ISB No. 3875

Shirley Bade, ISB No. 3848

10 CERTIFICATE OF SERVICE

11 I HEREBY CERTIFY that on the 11th day of May 2012 I caused to be served a
12 true and correct copy of the foregoing document, by the method indicated below, and
addressed to the following:

13 Shirley Bade
14 SHIRLEY BADE LAW FIRM, P.C.
15 418 E. Coeur d' Alene, Avenue,
Coeur d' Alene, ID. 83814

16 ☐ U.S. Mail, postage prepaid.
17 ☒ Fax transmission (208) 665-4621
18 ☐ Hand delivered.
☐ Overnight mail.

19 Douglas S. Marfice
20 Theron J. DeSmet
21 RANSDON & LYONS, LLP
22 P.O. Box 1336
Coeur d' Alene, ID 83816-1336

23 ☐ U.S. Mail, postage prepaid.
24 ☒ Fax transmission (208) 664-5884
25 ☐ Hand delivered.
☐ Overnight mail

26 RICHARD K. KUCK, PLLC

27 Richard K. Kuck
28 Attorney at Law

SUBSTITUTION OF COUNSEL - 2

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 MAR -5 A 9 41

MARIE SCOTT
CLERK DISTRICT COURT
[Signature]
DEPUTY

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
and as Trustee of the Kari A. Clark Trust
u/a/ Dated June 21, 2010

Defendant.

NO. CV-11-835

NOTICE OF APPEARANCE

NOTICE OF APPEARANCE

Mary Pandrea submits to this Court her Notice of Intent to Represent herself Pro Se
in these proceedings.

Respectfully submitted this 5th day of March, 2013.

Mary Pandrea

Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

NOTICE OF APPEARANCE-1

1 CERTIFICATE OF SERVICE


2
3 I hereby certify that on the 5th day of March, 2013, I served a true and correct copy of the
4 foregoing by the method indicated below, and addressed to the following:

5 Richard K. Kuck
6 RICHARD K. KUCK, P.C.
7 P.O. Box 1320
8 408 Sherman Ave., Ste. 205
9 Coeur d'Alene, ID 83816-1320
10 (208) 667-3379

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

11 Courtesy Copy to:
12 The Honorable
13 Judge John Patrick Luster
14 Kootenai County Courthouse
15 PO Box 9000
16 Coeur d'Alene, ID 83816-9000

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile

17 
18 Mary Pandrea
19 Plaintiff, Pro Se
20 4687 Upper Pack River Road
21 Sandpoint, Idaho 83864
22 (208)263-5494
23
24
25

26 NOTICE OF APPEARANCE-2
27

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 MAR -5 A 9 41

MARIE SCOTT
CLERK DISTRICT COURT
[Signature]
DEPUTY

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
and as Trustee of the Kari A. Clark Trust
u/a/ Dated June 21, 2010

Defendant.

NO. CV-11-835

DECLARATION OF PANDREA

I, Mary Pandrea, Plaintiff Pro Se in this matter, base this declaration on my personal knowledge. I, Mary Pandrea, discovered the Deed of Trust between Kari Clark and Deanna and Kenneth Barrett while researching records in the Bonner County Recorder's Office on February 1, 2013.

DECLARATION OF PANDREA-1

1
2 I declare under penalty of perjury under the laws of the State of Idaho that the forgoing statement
3 is true and correct.
4

5
6
7 DATED: at Sandpoint, ID this 5th day of March, 2013.
8
9

10 

11 Mary Pandrea
12 Plaintiff Pro Se
13 4687 Upper Pack River Road
14 Sandpoint, Idaho 83864
15 (208)263-5494
16
17
18
19
20
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26 DECLARATION OF PANDREA-2
27

1
2 CERTIFICATE OF SERVICE
3
4


5
6 I hereby certify that on the 5th day of March, 2013, I served a true and correct copy of the
7 foregoing by the method indicated below, and addressed to the following:

8 Richard K. Kuck
9 RICHARD K. KUCK, P.C.
10 P.O. Box 1320
11 408 Sherman Ave., Ste. 205
12 Coeur d'Alene, ID 83816-1320
13 (208) 667-3379

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

14 Courtesy Copy to:
15 The Honorable
16 Judge John Patrick Luster
17 Kootenai County Courthouse
18 PO Box 9000
19 Coeur d'Alene, ID 83816-9000

☐ US Mail
☐ Overnight Mail
☒ Hand Delivered
☐ Facsimile

20
21 
22 Mary Pandrea
23 Plaintiff, Pro Se
24 4687 Upper Pack River Road
25 Sandpoint, Idaho 83864
26 (208)263-5494
27

DECLARATION OF PANDREA-3

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 MAR -6 P 3:01

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
and as Trustee of the Kari A. Clark Trust
u/a/ Dated June 21, 2010

Defendant.

NO. CV-11-835

PLAINTIFF'S MOTION FOR
RECONSIDERATION OF TRIAL
DECISION

COMES NOW, Plaintiff Pro Se, Mary E. Pandrea, individually and as Trustee of the Kari A. Clark and Mary Pandrea Revocable Trust u/a/ April 9, 2002, and moves the court for reconsideration of its Trial Decision, which was announced on the record August 16, 2012, although no final judgment has been entered as per I.R.C.P. 54(a) and (b).

This Motion is supported by the Memorandum filed herewith, as well as the records and files herein.

RECONSIDERATION MOTION-I

1 DATED this 6th day of March, 2013.

2
3 MARY E. PANDREA

4
5 By: Mary E. Pandrea
6 Mary E. Pandrea
7 4687 Upper Pack River Road
8 Sandpoint, Idaho 83864
9 (208)263-5494

10 *Plaintiff, Pro Se*

11
12
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25
26 RECONSIDERATION MOTION-2

27 0328

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 MAR 13 P 12:18

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**MOTION FOR LEAVE TO
WITHDRAW AS ATTORNEY OF
RECORD**

TO: THE ABOVE-ENTITLED PARTIES AND ATTORNEY OF RECORD:

COMES NOW Douglas S. Marfice and Ramsden & Lyons, LLP, 700 Northwest Blvd., Coeur d'Alene, Idaho, 83814, and moves this Court pursuant to I.R.C.P. 11(b)(2), for an order granting the attorney leave to withdraw as attorney of record for the Plaintiff/Counter Defendant Mary Pandrea in this matter.

The undersigned counsel does aver and represent to the Court that the Plaintiff/Counter Defendant Mary E. Pandrea has requested counsel's withdrawal, has indicated that she intends to appear *pro se*, and that she has been advised, in writing, of the risks and obligations associated with *pro se* representation.

This motion is not made with the intent of causing any delay in determination or disposition of the pending action nor for any improper purpose or to cause prejudice to any party.

This motion is supported by the Stipulation filed herewith. The last known address for Mary Pandrea is as set forth in the Certificate of Service below.

DATED this 12th day of March, 2013.

RAMSDEN & LYONS, LLP

By: 
Douglas S. Marfice, Of the Firm
Attorneys for Plaintiff/Counter Defendant

CERTIFICATE OF SERVICE

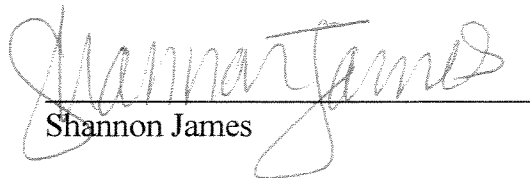
I hereby certify that on the 12 day of March, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 667-3379

Mary Pandrea
4672 Upper Pack River Rd.
Sandpoint, ID 83864

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 MAR 13 P 12:18

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.


Case No. CV-11-835

**STIPULATION FOR ORDER TO
ALLOW WITHDRAWAL AS
ATTORNEY OF RECORD**


COME NOW Douglas S. Marfice, Mary E. Pandrea and Richard K. Kuck, and stipulate and agree that Douglas S. Marfice be granted an Order for leave to withdraw from this case as counsel for Plaintiff/Counter Defendant Mary E. Pandrea, who will thereafter appear *pro se* in this matter. This Stipulation is made pursuant to Idaho Rule of Civil Procedure 11(b)(2).

DATED this 12th day of March, 2013.

RAMSDEN & LYONS, LLP

By: 
Douglas S. Marfice, Of the Firm
Withdrawing Attorney

DATED this 11th day of March, 2013.

By: 
Mary E. Pandrea, *Pro Se*
Plaintiff/Counter Defendant

DATED this ____ day of March, 2013.

RICHARD K. KUCK, P.C.

By: _____
Richard K. Kuck, Of the Firm
Attorney for Defendant/Counterclaimant

CERTIFICATE OF SERVICE

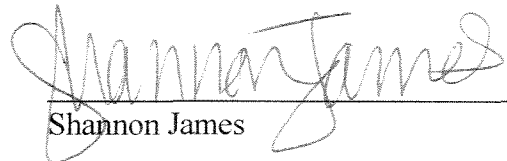
I hereby certify that on the 12 day of March, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

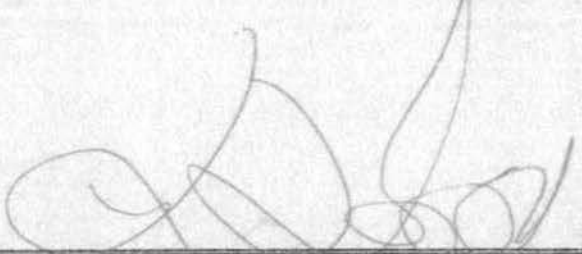
Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☒ Facsimile (208) 667-3379

Mary Pandrea
4672 Upper Pack River Rd.
Sandpoint, ID 83864

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Shannon James

Description	BONNER CV 2011-835 Pandrea vs Clark 20130328 Motion to Withdraw Judge John Patrick Luster Clerk Kathy Booth Court Reporter Keri Veare PA Theron DeSmet DA Rich Kuck 		
Date	3/28/2013	Location	1K-COURTROOM1
Time	Speaker	Note	
03:05:13 PM	J	Calls case - PA and Plaintiff are present for hearing on a motion to withdraw. I don't see counsel for Ms. Clark today.	
03:05:40 PM	PA	I spoke to him briefly and I understood he would be here. He indicated he wasn't prepared to stipulate. DA is not present nor is Ms. Clark. My client requests me to withdraw and she wishes to proceed pro se. There is good cause.	
03:06:30 PM	J	DA has now arrived.	
03:06:52 PM	PA	Our client requests withdrawal and wishes to proceed pro se. She understands the obligations and with this good cause I ask you to grant the withdrawal.	
03:07:32 PM	DA	My client has some concerns as to how smoothly the case will proceed re: surveys etc.	
03:07:55 PM	J	DA was to submit a final judgment.	
03:08:07 PM	DA	PL has filed a variety of pleadings pro se and we filed a motion to strike those as she had an attorney - I've not set the hearing. We have bids from surveyor but the snow load there has held us up. We hope to have it done very soon.	
03:09:00 PM	J	If withdrawal is allowed there is a 20 day moratorium.	
03:09:14 PM	DA	We don't anticipate it will delay entry of judgment. We have a bid in and the surveyor had concerns about access.	
03:09:34 PM	PA	The 20 days would not prejudice any of the parties. The motion was not filed to delay. It is here right to represent herself pro se.	
03:10:02 PM	J	It doesn't sound like the 20 day delay would prejudice anyone. There is a breakdown in the attorney/client relationship and Ms. Pandrea may choose to represent herself and she has a right to do that.	
03:10:39 PM	Pandrea	I have no objection to PA's withdrawal	
03:10:48 PM	J	The rule provides nothing will happen for 20 days during which time you need to put the court on notice of how you will be represented. If you don't the other side may seek a default ruling.	

0335

<u>03:11:27 PM</u>	Pandrea	Counsel explained that to me.
<u>03:11:48 PM</u>	J	GRANT MOTION
<u>03:11:57 PM</u>	PA	Submits order
<u>03:12:16 PM</u>	J	Signs order.
<u>03:12:23 PM</u>	PA	Nothing additional
<u>03:12:26 PM</u>	DA	Nothing to add
<u>03:12:29 PM</u>	J	Adjourned.
<u>03:12:33 PM</u>		
<u>03:12:33 PM</u>	End	

Produced by FTR Gold™
www.fortherecord.com

0336

1 Richard K. Kuck, ISB No.3875
 2 RICHARD K. KUCK, P.C.
 3 P.O. Box 1320
 4 408 Sherman Avenue, Suite 205
 5 Coeur d'Alene, ID 83816-1320
 6 Tel: 208-667-3600
 7 Fax: 208-667-3379
 8 Attorney for the Defendant

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DIST.

2013 MAR 28 P 2:21

MAINE SCOTT
 CLERK DISTRICT COURT

DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

9	MARY E. PANDREA, a single woman,)	
10)	
11	Plaintiff,	)	CASE NO. CV-2011-835
12	vs.	)	DEFENDANT'S MOTION TO STRIKE
13	KARI A. CLARK, a single woman	)	PLAINTIFF'S PRO-SE PLEADINGS
14	individual and as Trustee of the Kari A.	)	AND REQUEST FOR APPROPRIATE
15	Clark Trust u/a Dated June 21, 2010;	)	SANCTIONS
16)	
17	Defendant.)	
18)	
19	KARI A. CLARK, a single woman)	
20	individual and as Trustee of the Kari A.)	
21	Clark and Mary A. Pandrea Revocable)	
22	Trust, u/a April 9, 2002 and Dated June 21,)	
23	2010 and as Trustee of the Kari A. Clark)	
24	Trust u/a Dated June 21, 2010,)	
25)	
26	Counter-claimant,)	
27	vs.)	
28	MARY E. PANDREA, a single woman)	
29	individually and as Trustee of the Kari A.)	
30	Clark and Mary A. Pandrea Revocable)	
31	Trust, u/a April 9, 2002)	
32)	
33	Counter-defendant)	

COMES NOW the Defendant/Counter-claimant, KARI A. CLARK, and pursuant
 to Idaho Rule of Civil Procedure 11(a)(1) respectfully enters her objection to the pro-se
 DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S
 PRO-SE PLEADINGS AND REQUEST FOR APPROPRIATE SANCTIONS - 1

1 pleadings filed by the Plaintiff, Mary E. Pandrea, on March 5, 2013 and March 6, 2013.

2 I.R.C.P. 11(a)(1) requires that every pleading, motion and other paper filed by a
3 party represented by an attorney shall be signed by at least one licensed attorney of record
4 of the State of Idaho, in the attorneys individual name, and whose address must be stated
5 in the pleading as a condition to filing. The Plaintiff's March 5, 2013 Notice of
6 Appearance and Declaration of Pandrea, and March 6, 2013 Motion for Reconsideration of
7 Trial Decision and their supporting materials are signed by Mary E. Pandrea who is not a
8 licensed attorney in the State of Idaho and who is presently represented by the law firm of
9 Ramsden & Lyons, LLP.
10

11 I.R.C.P. 11(a)(1) provides that if a pleading is signed in violation of that rule, the
12 Court shall impose upon the party who signed it an appropriate sanction , which may
13 include an order to pay to the other the amount of the reasonable expenses incurred
14 because of the filing of the pleading, including a reasonable attorney's fee.
15

16 The Defendant respectfully moves the Court for an order striking all pleadings,
17 papers and documents filed by the Plaintiff on March 5 and March 6, 2013 and imposing
18 upon the individual Plaintiff, Mary E. Pandrea, the reasonable sanction of \$281.25 as the
19 attorneys fees incurred by the Defendant for the review of those pleadings and for the
20 preparation of thif filing and its supporting affidavit.
21

22 DATED this 28th day of March 2013.

23 RICHARD K. KUCK, PLLC

24 
25 Richard K. Kuck
26 Attorney for Defendant
27
28

DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S
PRO-SE PLEADINGS AND REQUEST FOR APPROPRIATE SANCTIONS - 2

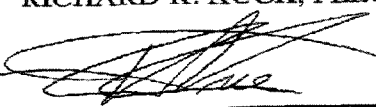
1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that on the 28th day of March 2013 I caused to be served a
3 true and correct copy of the foregoing document, by the method indicated below, and
4 addressed to the following:

5 Douglas S. Marfice
6 Theron J. DeSmet
7 RANSDON & LYONS, LLP
8 P.O. Box 1336
9 Coeur d' Alene, ID 83816-1336

10 ☐ U.S. Mail, postage prepaid.
11 ☒ Fax transmission (208) 664-5884
12 ☐ Hand delivered.
13 ☐ Overnight mail

14 RICHARD K. KUCK, PLLC

15 
16 _____
17 Richard K. Kuck
18 Attorney for Defendant
19
20
21
22
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28

DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S
PRO-SE PLEADINGS AND REQUEST FOR APPROPRIATE SANCTIONS - 3

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 MAR 28 P 4: 06

MARIE SOOTHY
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**ORDER GRANTING MOTION FOR
LEAVE TO WITHDRAW AS
ATTORNEY OF RECORD**

0340

The application of Douglas S. Marfice and Ramsden & Lyons, LLP to withdraw as attorneys of record for Plaintiff/Counter Defendant Mary E. Pandrea, in the above-captioned matter duly and regularly came before this Court.

The petitioner having shown that service of the Motion for Leave to Withdraw as Attorney Record was made upon all parties to the action and upon the Plaintiff/Counter Defendant Mary E. Pandrea.

The petitioner has shown good cause for the withdrawal.

NOW, THEREFORE, IT IS HEREBY ORDERED that Douglas S. Marfice and Ramsden & Lyons, LLP are granted leave to withdraw as attorneys of record for the Plaintiff/Counter Defendant Mary E. Pandrea in this matter.

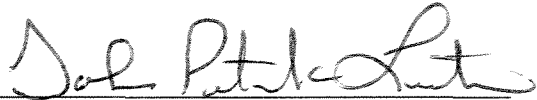
1. Pursuant to Rule 11(b)(3), Idaho Rules of Civil Procedure, the withdrawing attorneys shall forthwith, with due diligence, serve copies of this order of withdrawal upon Plaintiff/Counter Defendant and all other parties to the action and shall file proof of service with the court.

2. The withdrawing attorneys shall make such service upon Plaintiff/Counter Defendant by personal service or by certified mail to the last known address most likely to give notice to Plaintiff/Counter Defendant, which service shall be complete upon mailing. The last known address of Plaintiff/Counter Defendant is 4672 Upper Pack River Rd., Sandpoint, ID 83864.

3. Upon the entry of this order granting leave to withdraw as attorneys from this action, no further proceedings shall be held in this action which will affect the rights of Plaintiff/Counter Defendant for a period of twenty (20) days after service or mailing of the order of withdrawal to Plaintiff/Counter Defendant.

IT IS FURTHER ORDERED that if Plaintiff/Counter Defendant fails to file and serve an additional written appearance in this action either in person or through a newly appointed attorney within such twenty (20) days, such failure shall be sufficient grounds for the entry of default and default judgment against Plaintiff/Counter Defendant or a dismissal of the action, with prejudice and without further notice.

DATED this 28th day of March, 2013.



The Honorable John P. Luster
District Court Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of March, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
Coeur d'Alene, ID 83816-1320

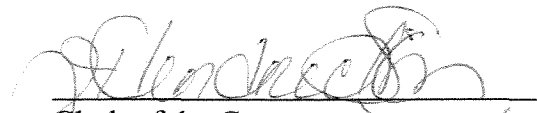
☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 667-3379

Mary Pandrea
4672 Upper Pack River Rd.
Sandpoint, ID 83864

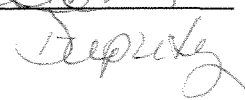
☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Douglas S. Marfice
RAMSDEN & LYONS, LLP
P.O. Box 1336
Coeur d'Alene, ID 83816-1336

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 664-5884



Clerk of the Court



0342

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 APR -4 A 11:54

MARIE SCOTT
CLERK DISTRICT COURT

[Signature]
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**AFFIDAVIT OF SERVICE OF
ORDER GRANTING MOTION FOR
LEAVE TO WITHDRAW AS
ATTORNEY OF RECORD**

ORIGINAL

STATE OF IDAHO)
) ss.
County of Kootenai)

SHANNON JAMES, being duly sworn upon oath, deposes and says:

1. That I am over the age of eighteen (18) years and not a party to the above-entitled action.

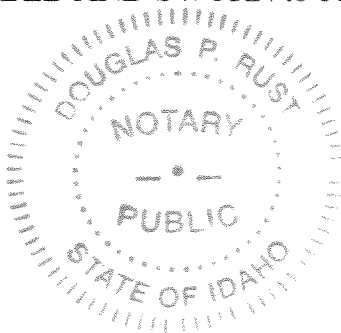
2. That on the 3rd day of April, 2013, I served a copy of the *Order Granting Motion for Leave to Withdraw as Attorney of Record*, via hand delivery and certified, return receipt mail (**Exhibit A**) addressed to:

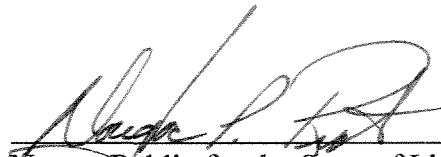
Mary E. Pandrea
4672 Upper Pack River Rd.
Sandpoint, Idaho 83864

DATED this 3rd day of April, 2013.


Shannon James

SUBSCRIBED AND SWORN to before me this 3rd day of April, 2013.




Notary Public for the State of Idaho
Residing at: Coeur d'Alene
My commission expires: 8-18-14

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of April, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 667-3379

Mary Pandrea
4672 Upper Pack River Rd.
Sandpoint, ID 83864

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

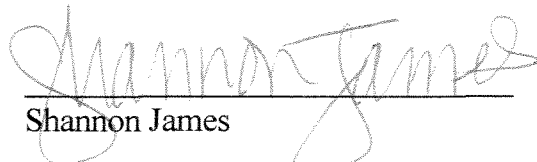

Shannon James

EXHIBIT A

7006 2150 0002 3933 4571
 1254 EEE2 2000 0572 9007

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$.46
Certified Fee	3.10
Return Receipt Fee (Endorsement Required)	2.55
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.11
Postmark Here	
APR 03 2013	
Sent To Mary Pandrea	
Street, Apt. No. or PO Box No. 4672 Upper Pack River Rd.	
City, State, ZIP+4 Sandpoint, ID 83864	
PS Form 3800, August 2006 See Reverse for Instructions	

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 APR 8 PM 2 33

CLERK DISTRICT COURT

jdj
DEPUTY

1 Mary E. Pandrea
2 4687 Upper Pack River Road
3 Sandpoint, Idaho 83864
4 (208)263-5494

5 ***Plaintiff, Pro Se***

6 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
7 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
8

9 MARY E. PANDREA, a single woman,)

10 Plaintiff,)

11 vs.)

12 KARI A. CLARK, a single woman)
13 and as Trustee of the Kari A. Clark Trust)
14 u/a/ Dated June 21, 2010)

15 Defendant.)
16)

17 KARI A. CLARK, a single woman)
18 and as Trustee of the Kari A. Clark Trust)
19 u/a/ Dated June 21, 2010)

20 Counterclaimant)

21 vs.)

22 MARY E. PANDREA, a single woman,)
23 Individually and as Trustee of the Kari A.)
24 Clark and Mary E. Pandrea Revocable)
25 Trust, u/a April 9, 2002,)

26 Counter Defendant.)
27)

NO. CV-11-835

NOTICE OF APPEARANCE

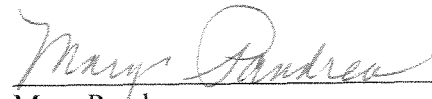
NOTICE OF APPEARANCE

NOTICE OF APPEARANCE-1

0346

1
2 I, Mary Pandrea, hereby give *Notice of My Appearance* in the above entitled case and
3 direct and request that all further papers and pleadings be served on me by mailing to the address
4 below, pursuant to Civil Rule 5 (I.R.C.P. 5).
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14 Respectfully submitted this 8th day of April, 2013.
15

16 
17 Mary Pandrea
18 Plaintiff, Pro Se
19 4687 Upper Pack River Road
20 Sandpoint, Idaho 83864
21 (208)263-5494
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NOTICE OF APPEARANCE-2

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CERTIFICATE OF SERVICE


I hereby certify that on the 8th day of April, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Courtesy Copy to:
The Honorable
Judge John Patrick Luster
Kootenai County Courthouse
PO Box 9000
Coeur d'Alene, ID 83816-9000

☐ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile



Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

NOTICE OF APPEARANCE-3

^348

RAMSDEN & LYONS, LLP
700 Northwest Blvd.
P.O. Box 1336
Coeur d'Alene, ID 83816-1336
Telephone: (208) 664-5818
Facsimile: (208) 664-5884
Douglas S. Marfice, ISB #4072
Theron J. De Smet, ISB #8184

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 APR 17 A 10:57

MARIE SCOTT
CLERK DISTRICT COURT
DEPUTY

Attorneys for Plaintiff/Counter Defendant

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Defendant.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust U/A Dated June 21, 2010,

Counterclaimant,

Vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable
Trust, u/a April 9, 2002,

Counter Defendant.

Case No. CV-11-835

**SECOND AFFIDAVIT OF SERVICE
OF ORDER GRANTING MOTION
FOR LEAVE TO WITHDRAW AS
ATTORNEY OF RECORD**

ORIGINAL

STATE OF IDAHO)
) ss.
County of Kootenai)

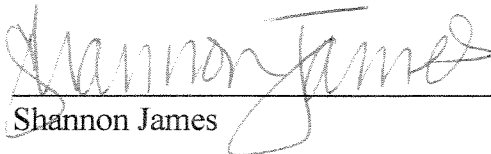
SHANNON JAMES, being duly sworn upon oath, deposes and says:

1. That I am over the age of eighteen (18) years and not a party to the above-entitled action.

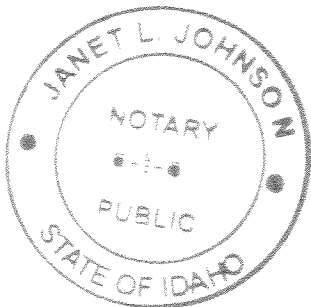
2. That on the 16th day of April, 2013, I served a copy of the *Order Granting Motion for Leave to Withdraw as Attorney of Record*, via certified, return receipt mail (**Exhibit A**) addressed to:

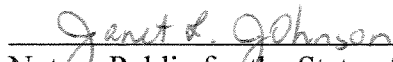
Mary E. Pandrea
4687 Upper Pack River Rd.
Sandpoint, Idaho 83864

DATED this 16th day of April, 2013.


Shannon James

SUBSCRIBED AND SWORN to before me this 16th day of April, 2013.




Notary Public for the State of Idaho
Residing at: Post Falls
My commission expires: 11/8/17

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of April, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile (208) 667-3379

Mary Pandrea
4687 Upper Pack River Rd.
Sandpoint, ID 83864

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

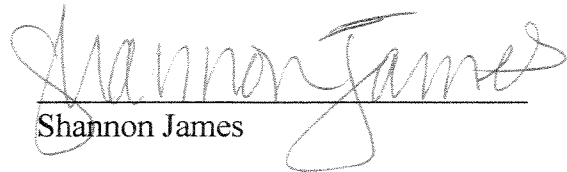

Shannon James

EXHIBIT A

7008 0150 0000 4747 7365

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only. No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 1.12
Certified Fee	3.10
Return Receipt Fee (Endorsement Required)	2.55
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.77
Postmark Here	
APR 16 2013	
Sent To Mary Pandya	
Street, Apt. No. or PO Box No. 4687 Upper Park Dr NW	
City, State, ZIP+4 Sandpoint, ID 83864	

PS Form 3800, August 2006 See Reverse for Instructions

STATE OF IDAHO
COUNTY OF BONNER
JUDICIAL DIST.

2013 APR 26 P 3:13

CLERK DISTRICT COURT
DEPUTY

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust u/a Dated June 21, 2010

Defendant,

NO. CV-11-835

**PLAINTIFF'S RE-FILED MOTION FOR
RECONSIDERATION OF TRIAL
DECISION**

(Without Argument)

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002

Counter Defendant.

COMES NOW, Plaintiff Pro Se, Mary E. Pandrea, individually and as Trustee of the Kari

RECONSIDERATION MOTION-1

0353

1 A. Clark and Mary Pandrea Revocable Trust u/a/ April 9, 2002, and moves the court for
2 reconsideration of its Trial Decision, which was announced on the record August 16, 2012, and
3 the Court's Order and Memorandum Opinion of January 15, 2013, although no final judgment has
4 been entered as per I.R.C.P. 54(a) and (b).

5
6 This Motion is supported by the Memorandum filed herewith, as well as the records and
7 files herein.

8
9 DATED this 26th day of April, 2013.

10
11 MARY E. PANDREA

12
13 By: Mary E. Pandrea
14 Mary E. Pandrea
15 4687 Upper Pack River Road
16 Sandpoint, Idaho 83864
17 (208)263-5494

18 *Plaintiff, Pro Se*
19
20
21
22
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27

RECONSIDERATION MOTION-2

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379


☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Courtesy Copy to:
The Honorable
Judge John Patrick Luster
Kootenai County Courthouse
PO Box 9000
Coeur d' Alene, ID 83816-9000

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Kenneth and Deanna Barrett
8919 Kiger Street
Lorton, Virginia 22079

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

RECONSIDERATION MOTION-3

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 APR 26 P 3:12

MARK SCOTT
CLERK DISTRICT COURT
DEPUTY

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,)
)
Plaintiff,)

NO. CV-11-835

vs.)

**RE-FILED DECLARATION OF
PANDREA**

KARI A. CLARK, a single woman)
and as Trustee of the Kari A. Clark Trust)
u/a/ Dated June 21, 2010)
)
Defendant.)

KARI A. CLARK, a single woman)
individually and as Trustee of the Kari A.)
Clark Trust u/a Dated June 21, 2010)

Counterclaimant)

vs.)

MARY E. PANDREA, a single woman)
individually and as Trustee of the Kari A.)
Clark and Mary E. Pandrea Revocable Trust,)
u/a April 9, 2002)

Counter Defendant.)


DECLARATION OF PANDREA

DECLARATION OF PANDREA-I

1 I, Mary Pandrea, Plaintiff Pro Se in this matter, base this declaration on my personal
2 knowledge. I, Mary Pandrea, discovered the Deed of Trust between Kari Clark and Deanna and
3 Kenneth Barrett while researching records in the Bonner County Recorder's Office on February
4 1, 2013.
5

6
7
8 I declare under penalty of perjury under the laws of the State of Idaho that the forgoing statement
9 is true and correct.
10

11
12
13 DATED: at Sandpoint, ID this 26th day of April, 2013.
14

15
16 
17 Mary Pandrea
18 Plaintiff Pro Se
19 4687 Upper Pack River Road
20 Sandpoint, Idaho 83864
21 (208)263-5494
22
23
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25

26 DECLARATION OF PANDREA-2
27

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of April, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379

☒ US Mail
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☐ Hand Delivered
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Courtesy Copy to:
The Honorable
Judge John Patrick Luster
Kootenai County Courthouse
PO Box 9000
Coeur d'Alene, ID 83816-9000

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Kenneth and Deanna Barrett
8919 Kiger Street
Lorton, Virginia 22079

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile



Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

DECLARATION OF PANDREA-3

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 APR 26 P 3:10

DALE SCOTT
CLERK DISTRICT COURT
DEPUTY

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
and as Trustee of the Kari A. Clark Trust
u/a/ Dated June 21, 2010

Defendant,

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002

Counter Defendant.

NO. CV-11-835

**PLAINTIFF'S NOTICE OF INTENT TO
WITHDRAW AND RE-FILE PRIOR
PRO SE FILINGS**

NOTICE OF INTENT TO WITHDRAW AND RE-FILE PRIOR PRO SE FILINGS

NOTICE OF INTENT TO WITHDRAW FILINGS-1

0359


1 COMES NOW the Plaintiff, Mary Pandrea, Pro Se, does hereby submit her Notice of
2 Intend to withdraw from the record of the Court the following documents submitted on March 5
3 and 6, 2013 in the Bonner County Clerk's Office:

- 4 1. *Plaintiff Mary Pandrea's Objection to Ruling Based on Clouded Title and*
5 *Defendant's Failure to Provide a True and Accurate Accounting*
- 6 2. *Declaration of Pandrea*
- 7 3. *Plaintiff's Motion for Reconsideration of Trial Decision*
- 8 4. *Memorandum in Support of Plaintiff's Motion for Reconsideration of Trail Decision*
- 9
- 10

11 As indicated in *Plaintiff's Opposition to Defendant's Motion to Strike Plaintiff's*
12 *Pro Se Pleadings and Request for Appropriate Sanctions*, these documents will be re-filed
13 and served to opposing counsel as required under the Idaho Rules of Civil Procedure.
14

15
16 Dated this 26th day of April, 2013

17
18 Respectfully submitted,

19
20 
21 Mary Pandrea
22 Plaintiff, Pro Se
23 4687 Upper Pack River Road
24 Sandpoint, Idaho 83864
25 (208)263-5494
26

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Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379

Courtesy Copy to:
The Honorable
Judge John Patrick Luster
Kootenai County Courthouse
PO Box 9000
Coeur d' Alene, ID 83816-9000

Mary Pandrea
Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

0361

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

STATE OF IDAHO
COUNTY OF BONNER
DISTRICT COURT

2013 APR 26 P 3:11

CLERK DISTRICT COURT
DEPUTY

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
and as Trustee of the Kari A. Clark Trust
u/a/ Dated June 21, 2010

Defendant,

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002

Counter Defendant.

NO. CV-11-835

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO
STRIKE PLAINTIFF'S PRO SE
PLEADINGS AND REQUEST FOR
APPROPRIATE SANCTIONS**

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO STRIKE

OPPOSITION TO MOTION TO STRIKE-1

1 Plaintiff, Mary E. Pandrea, Pro Se, submits this Memorandum in Opposition to
2 Defendant's "*Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate*
3 *Sanctions*" (Motion to Strike) filed by Defendants. This Court should deny the Motion to Strike
4 because it fails to meet the requirements under Idaho Rules of Civil Procedure 12(f).
5

6 BACKGROUND

7 On March 5, 2013, Pandrea submitted to this Court her *Notice of Appearance* to
8 represent herself Pro Se and an *Objection to the Ruling Based on Clouded Title and Defendant's*
9 *Failure to Provide a True and Accurate Accounting with a Declaration of Pandrea*. Pandrea
10 additionally submitted her *Motion and Memorandum in Support of Motion for Reconsideration*
11 *of the Trial Court's Decision*, which was filed on March 6, 2013.
12

13 Pandrea was instructed by the Clerk of the Court in Bonner County to request a withdraw
14 of her Attorney of Record, Douglas Marfice, of Ramsden and Lyons, which she subsequently did
15 the same day. As a result, a hearing was set for March 28, 2013 before the Honorable John P.
16 Luster on the *Motion for Leave to Withdraw as Attorney of Record*. Pandrea refrained from
17 scheduling a hearing on her previously submitted Pro Se motions pending the outcome of the
18 March 28, 2013 hearing.
19

20 Richard K. Kuck, Attorney for Defendant, submitted the Motion to Strike on the same
21 day as the hearing, March 28, 2013.

22 At the conclusion of the hearing, the Court granted Pandrea's *Motion for Leave to*
23 *Withdraw as Attorney of Record* and instructed her to file a Notice of Appearance within 20 days
24 of the entry of the Order.
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LAW AND ARGUMENT

A. Clark's Motion to Strike is Misplaced

Clark purports to strike pleadings submitted by Pandrea on March 5 and 6 of 2013. Pandrea, however, did not file and serve pleadings as defined under I.R.C.P. 7(a) which distinguishes "pleadings" from "motions and other papers." In subsection (a), the rule enumerates the types of "pleadings" that are permissible:

- (1) a complaint;
- (2) an answer to a complaint;
- (3) an answer to a counterclaim designated as a counterclaim;
- (4) an answer to a crossclaim;
- (5) a third-party complaint;
- (6) an answer to a third-party complaint; and
- (7) if the court orders one, a reply to an answer.

Subsection (b) of the rule refers to "motions," stating that they are the proper vehicles for requests for court orders.

Pandrea submitted a motion, an objection and a notice of appearance, *not a pleading*. As such, Clark's Motion to Strike fails to meet the definition under I.R.C.P 12(f) "the court may order stricken from any *pleading* any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter".

Clark's Motion to Strike should be denied.

B. Clark's Motion to Strike is Untimely

Pandrea filed and served the documents at issue 22 days prior to the submission of Clark's Motion to Strike. I.R.C.P. 12(f) requires a motion to strike to be "made upon a party within

1 twenty (20) days after the service of the pleading upon the party". Assuming that Clark's Motion
2 to Strike was proper (which it was not) it fails due to being filed and served untimely.

3 Clark's Motion to Strike should be denied.
4

5
6 **C. Pandrea was the Proper Party to Sign the Pro Se Filings**

7 Pandrea filed and served her Objection and motion as a Pro Se litigant after filing her
8 Notice of Appearance. These documents were properly signed by Pandrea as required under
9 I.R.C.P 11(a)(1) whereby "A party who is not represented by an attorney shall sign the pleading,
10 motion or other paper and state the party's address" and "The signature of an attorney or party
11 constitutes a certificate that the attorney or party has read the pleading, motion or other paper".
12

13 Clark asserts that a party cannot submit and sign pleadings, motions, or other papers if
14 the party has retained an attorney of record. This is contrary to the language in I.R.C.P 11(a)(1)
15 and undermines the purpose of the legislative intent for a party to represent herself Pro Se.

16 Curiously, Clark is attempting to apply a double-standard to her Motion to Strike.
17 Clark previously submitted documents to this Court that were signed by Clark as Pro Se and by
18 her Attorney of Record. Clearly, Clark is aware that a party can simultaneously be represented as
19 Pro Se and with Counsel.
20

21 Clark has failed to provide a legal basis for claiming that Pandrea signed her Pro Se
22 filing improperly. As such, Clark's request for sanctions should be denied.
23

24 **D. Clark was not Prejudiced as a Result of Pandrea's Actions**
25

26
27 OPPOSITION TO MOTION TO STRIKE-4

1 On March 12, 2013, Pandrea contacted Kathy Booth in Judge Luster's Court to inquire
2 about scheduling a hearing for the filings made on March 5 and 6 of 2013. As a result of this
3 correspondence Pandrea postponed scheduling a hearing until the March 28, 2013 hearing on the
4 *Motion for leave to Withdraw as Attorney of Record* was decided.
5

6 At the conclusion of the March 28, 2013 hearing Pandrea was advised that no action
7 could be taken for an additional 20 days following the entry of the Order. The Order was entered
8 on March 28, 2013 and as such the 20 day stay expired April 17, 2013.

9 According to Rule 7(b)(3)(E) "Any brief submitted in support of a motion shall be filed
10 with the court and served so that it is received by the parties at least fourteen (14) days prior to
11 the hearing. Any responsive brief shall be filed with the court and served so that it is received by
12 the parties at least seven (7) days prior to the hearing. Any reply brief shall be filed with the court,
13 and served so that it is received by the parties, at least two (2) days prior to the hearing".
14

15 Since Pandrea did not schedule a hearing(s) on her filings prior to April 17, 2013, there
16 was no prejudice to Clark. In actuality, Clark received the benefit of Pandrea's early filings as
17 additional time was afforded to Clark before the hearing(s) was scheduled.
18

19 Again, assuming that I.R.C.P. 12(f) was applicable (which it is not) "the court may
20 order stricken from any pleading any insufficient defense or any redundant, immaterial,
21 impertinent, or scandalous matter". By definition, Pandrea's filings do not meet this standard and
22 sanctions are not warranted as no prejudice resulted.

23 Clark's request for sanctions should be denied.
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CONCLUSION

Pandrea did not act in bad faith and her actions were inadvertent and harmless. In an effort to meet any procedural requirements Pandrea shall resubmit her *Motion and Memorandum for Reconsideration of the Trial Court's Decision and, Objection to the Ruling Based on Clouded Title and Defendant's Failure to Provide a True and Accurate Accounting, with a Declaration of Pandrea.*

The Court should deny Defendant's *Motion to Strike Plaintiff's Pro Se Pleadings and Request for Appropriate Sanctions.*

Dated this 26th day of April, 2013

Respectfully submitted,


Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

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CERTIFICATE OF SERVICE


I hereby certify that on the 26th day of April 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Courtesy Copy to:
The Honorable
Judge John Patrick Luster
Kootenai County Courthouse
PO Box 9000
Coeur d'Alene, ID 83816-9000

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

FILED
JUN 11 2013
CLERK OF DISTRICT COURT
BONNER COUNTY, IDAHO
JUN 11 PM 4:22
JUL 1 2013
DISTRICT COURT
BONNER COUNTY, IDAHO

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY PANDREA,

Plaintiff,

v.

KARI CLARK,

Defendant,

CASE NO. CV-2011-835

AFFIDAVIT OF JOHN MARQUETTE

STATE OF IDAHO)
 :SS
County of Bonner)

JOHN MARQUETTE, being first duly sworn, deposes and says:

1. That I am over the age of 18 years, competent, and make this Affidavit upon my own personal knowledge and belief.
2. I am an Idaho licensed Professional Land Surveyor, License No. 7877. I work for J.R.S. Surveying, Inc. in Bonner's Ferry, Idaho.

3. In 2012, after the Court issued an Order partitioning the real property that is the subject of this action, I was hired by Mary Pandrea, the Plaintiff in this lawsuit, to perform a survey of the subject property. I prepared a survey for Ms. Pandrea and recorded it in Bonner County under Instrument No. 833352

4. In April 2013, I was hired by Kari Clark, the Defendant in this lawsuit, to perform another survey based upon a later Order of the court directing that the property be divided in a manner other than that shown in my previous survey commissioned by Ms. Pandrea.

5. When I undertook the required work in the field and prepared the survey, I discovered that the real property contained 18.72 acres, rather than 20 acres as the parties in this action had previously believed.

6. I am not sure how anyone came to the conclusion that there were 20 acres in the subject property other than by assumption or guesswork.

7. I am aware that the Assessor's Office will, without benefit of an actual survey, use whatever means are available to create a reasonable estimate of acreage for taxation purposes.

8. The deed to Kari Clark, from First Interstate Bank of Idaho, Instrument No. 396781, clearly limits the boundary to the SE1/4 of Section 11. Attached hereto as **Exhibit "A"** is a copy of the survey I have prepared for Ms. Clark. The triangular parcel in the northwest corner of this is outside the SE1/4, although it is my understanding that the parties to this lawsuit may have previously believed that this area was a part of the property that is the subject of this lawsuit.

9. The description in Instrument No. 396781 conforms to the 1979 Tucker Survey of this property, which also shows the northwest corner of Parcel II as being the Center 1/4 corner of Section 11 (the northwest corner of the SE1/4).

10. The Bonner County Assessor's Map for Section 11, T59N, R2W shows the parcel that is being partitioned in this lawsuit (Tax 49 according to the parcel map) as not including the triangular parcel northwest of the SE1/4.

11. It should be noted that neither the deed to Kari Clark nor the 1979 Tucker Survey give a precise location of the Pack River. Though the centerline of Pack River is a portion of this boundary, it is evident that it was never located by survey, hence, nor by a metes and bounds description. Tucker's survey shows it for graphic purposes only and makes no claim as to a specific location. It is typical for water boundaries to change over time and perhaps for the purpose of describing for ownership when the parcel was created, the centerline of the creek wherever it is over time suffices as a call of boundary.

12. In regards to the acreage issue, it is difficult to know if the Assessor's Office inadvertently included the northwesterly triangle and that is where the discrepancy came from, or made a guesstimate where the river was but wasn't very close, or whether the river has moved significantly since the parcel was created, meaning the acreage could possibly continue to decrease over time.

13. For the purposes of the survey that I have prepared, the parcel being divided goes to the centerline of Pack River as actually located by survey on April 22, 2013. All the other boundaries of this parcel are well defined, leaving 18.72 acres to be divided.

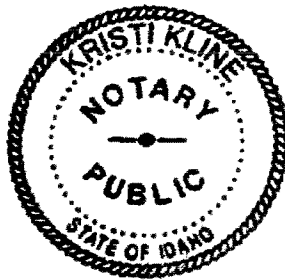
14. The Court had ordered that Ms. Clark was to receive 9 acres of a 20 acre parcel (45%) and that Ms. Pandrea was to receive 11 acres of a 20 acre parcel (55%). I used these

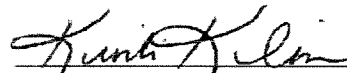
percentages to divide what is actually 18.72 acres, allotting 8.42 acres to Ms. Clark and 10.30 to Ms. Pandrea, as I believe this is in keeping with the Court's equitable distribution of the property.

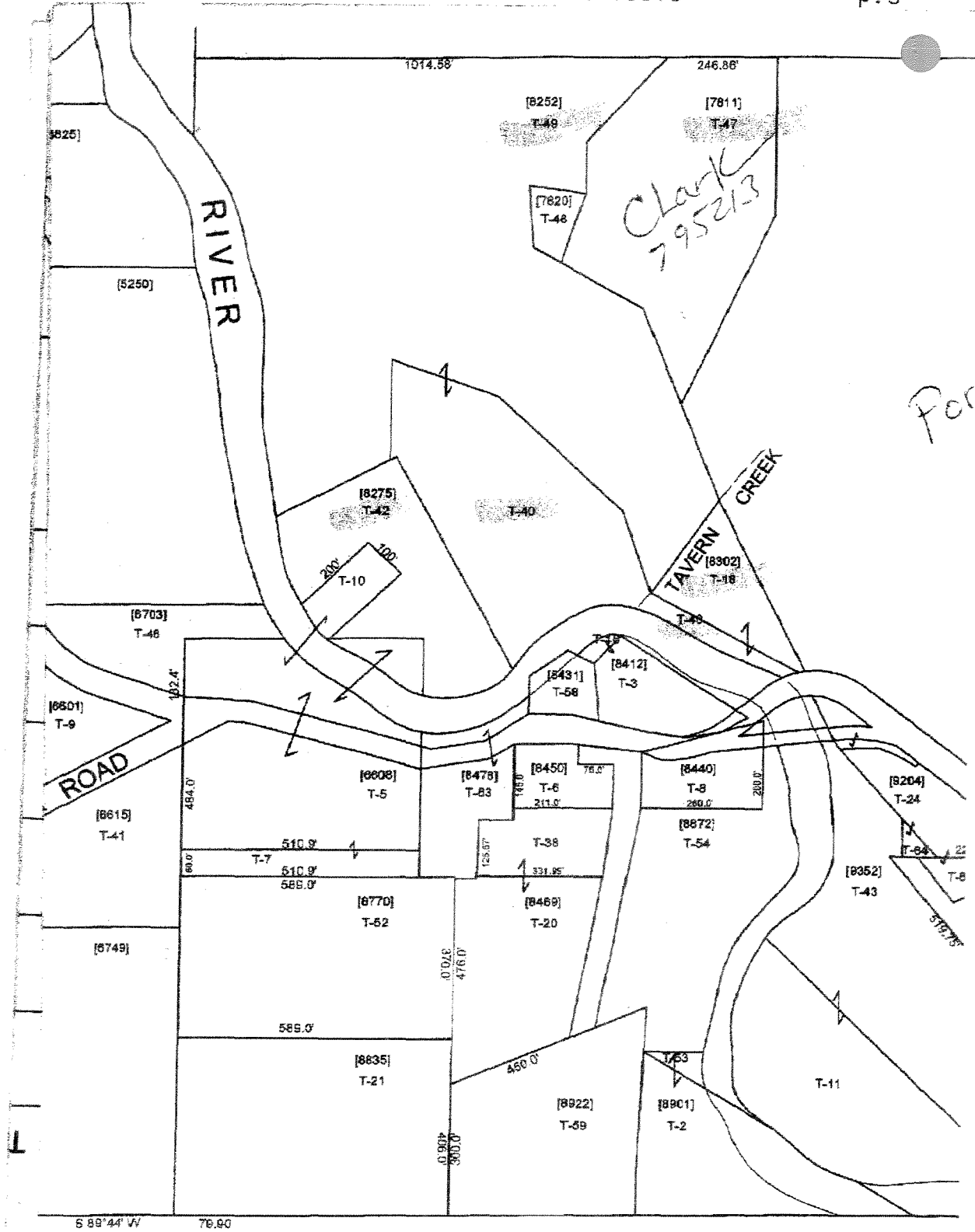
FURTHER THIS AFFIANT SAYETH NAUGHT.


John Marquette

SUBSCRIBED AND SWORN to before me this 6TH day of June 2013.




Notary Public for Idaho
Residing at: BOUNDARY COUNTY
Commission Expires: 9/11/2014



PROPERTY DESCRIPTION - CLARK PER COURT CASE No. CV-2011-835

A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner County, Idaho; more particularly described as follows:

0374
Beginning at the northwest corner of said SE1/4, which is marked on the ground by a 2" brass cap stamped PE 3318; thence, along the north line of the SE1/4, N 89°58'35" E, 1003.87 feet to the centerline of a creek; thence, leaving said north line and along said centerline the

thence to the centerline of a creek, thence, leaving said north line and along said centerline the following Three (3) courses: N 53°38'47" W, 103.74 feet; thence N 42°32' W, 93.41 feet; thence S 46°31'11" W, 41.25 feet; thence, leaving said centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar; thence, continuing S 00°00'13" E, 116.74 feet to a 5/8" rebar, which marks on the ground the northeast corner of that parcel described in Instrument No. 389489; thence, along

~~the boundary of that parcel described in instrument no. 389489 the following two (2)~~

courses: N 81°41'17" W, 122.60 feet to the northwest corner thereof; thence S 04°14'29" E, 84.52 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, leaving said boundary S 76°29'18" W, 592.16 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, continuing S 76°29'18" W, 50.04 feet to the thread of Pack River as it was found to exist April 22, 2013; thence, along the thread of the river the following Three (3) courses: N 08°08'32" W, 50.72 feet; thence N 21°08'12" W, 73.68 feet; thence N 41°11'16" W, 115.48 feet to the intersection with the west line of the SE1/4 of Section 11; thence, leaving said thread of the river and along said west line N 00°55'33" E, 85.02 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, continuing along said west line N 00°55'33" E, 231.08 feet to the POINT OF BEGINNING, encompassing an area of 8.42 acres.

PROPERTY DESCRIPTION - CLARK PER COURT CASE NO. CV-2011-835
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CLARK PER COURT
CLARK PER COURT
CLARK PER COURT

PROPERTY DESCRIPTION - CLARK PER COURT CASE No. CV-2011-835

A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner County, Idaho; more particularly described as follows:

Beginning at the northwest corner of said SE1/4, which is marked on the ground by a 2" brass cap stamped PE 3318; thence, along the north line of the SE1/4, N 89°58'35" E, 1003.87 feet to the centerline of a creek; thence, leaving said north line and along said centerline the following Three (3) courses: S 53°38'47" W, 103.74 feet; thence S 29°42'32" W, 93.41 feet; thence S 46°31'11" W, 41.15 feet; thence, leaving said centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar; thence, continuing S 00°00'13" E, 116.74 feet to a 5/8" rebar, which marks on the ground the northeast corner of that parcel described in Instrument No. 389489; thence, along the boundary of that parcel described in Instrument No. 389489 the following Two (2) courses: N 81°41'17" W, 122.60 feet to the northwest corner thereof; thence S 04°14'29" E, 84.52 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, leaving said boundary S 76°29'18" W, 592.16 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, continuing S 76°29'18" W, 50.04 feet to the thread of Pack River as it was found to exist April 22, 2013; thence, along the thread of the river the following Three (3) courses: N 08°08'32" W, 50.72 feet; thence N 21°08'12" W, 73.68 feet; thence N 41°11'16" W, 115.48 feet to the intersection with the west line of the SE1/4 of Section 11; thence, leaving said thread of the river and along said west line N 00°55'33" E, 85.02 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, continuing along said west line N 00°55'33" E, 231.08 feet to the POINT OF BEGINNING, encompassing an area of 8.42 acres.

PROPERTY DESCRIPTION - CLARK PER COURT CASE No. CV-2011-835

A tract of land situated in the Southeast Quarter (SE1/4) of Section Eleven (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner County, Idaho; more particularly described as follows:

Beginning at the northwest corner of said SE1/4, which is marked on the ground by a 2" brass cap stamped PE 3318; thence, along the north line of the SE1/4, N 89°58'35" E, 1003.87 feet to the centerline of a creek; thence, leaving said north line and along said centerline the following Three (3) courses: S 53°38'47" W, 103.74 feet; thence S 29°42'32" W, 93.41 feet; thence S 46°31'11" W, 41.15 feet; thence, leaving said centerline S 00°00'13" E, 18.02 feet to a 5/8" rebar; thence, continuing S 00°00'13" E, 116.74 feet to a 5/8" rebar, which marks on the ground the northeast corner of that parcel described in Instrument No. 389489; thence, along the boundary of that parcel described in Instrument No. 389489 the following Two (2) courses: N 81°41'17" W, 122.60 feet to the northwest corner thereof; thence S 04°14'29" E, 84.52 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, leaving said boundary S 76°29'18" W, 592.16 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, continuing S 76°29'18" W, 50.04 feet to the thread of Pack River as it was found to exist April 22, 2013; thence, along the thread of the river the following Three (3) courses: N 08°08'32" W, 50.72 feet; thence N 21°08'12" W, 73.68 feet; thence N 41°11'16" W, 115.48 feet to the intersection with the west line of the SE1/4 of Section 11; thence, leaving said thread of the river and along said west line N 00°55'33" E, 85.02 feet to a 5/8" rebar and plastic cap stamped PLS 7877; thence, continuing along said west line N 00°55'33" E, 231.08 feet to the POINT OF BEGINNING, encompassing an area of 8.42 acres.

EASEMENT DESCRIPTION - CLARK PER COURT CASE No. CV-2011-835

An easement for ingress and egress in the Southeast Quarter (SE1/4) of Section Eleven (11), Township Fifty-nine (59) North, Range Two (2) West of the Boise Meridian, Bonner County, Idaho, being the width of the existing road, the centerline of which being more particularly described as follows:

Commencing at a point on the north line of said SE1/4 which is N 89°58'35" E, 167.94 feet from the northwest corner of the SE1/4; thence, leaving said north line in a perpendicular direction S 00°01'25" E, 506.72 feet to the POINT OF BEGINNING; thence, along the centerline of the existing road the following Twenty-one (21) courses: S 00°28'55" W, 14.59 feet; thence S 11°53'33" E, 60.13 feet; thence S 05°39'16" E, 191.70 feet; thence S 21°58'55" E, 65.10 feet; thence S 45°19'28" E, 56.10 feet; thence S 67°44'51" E, 41.20 feet; thence N 75°06'38" E, 20.35 feet; thence N 45°20'45" E, 62.42 feet; thence S 80°35'06" E, 91.70 feet; thence N 89°01'10" E, 39.41 feet; thence N 72°13'13" E, 61.82 feet; thence N 88°47'17" E, 50.82 feet; thence S 68°04'12" E, 33.29 feet; thence S 48°25'01" E, 39.22 feet; thence S 37°00'58" E, 123.36 feet; thence S 41°06'08" E, 65.01 feet; thence S 27°17'41" E, 46.23 feet; thence S 11°36'34" E, 60.72 feet; thence S 51°45'14" E, 127.78 feet; thence S 53°36'45" E, 29.77 feet; thence S 56°37'00" E, 47.76 feet to the northwesterly line of that parcel described in Instrument No. 696510, and the terminus of this easement.

Thence, from said terminus, along the northwesterly line of that parcel described in Instrument No. 696510, N 33°53'21" E, 2.56 feet to the centerline of that 30' wide access and utility easement described in Instrument No. 226223; thence, along said centerline S 58°05'35" E, 297.92 feet to the county road right of way and the terminus of this easement.

1 Mary E. Pandrea
2 4687 Upper Pack River Road
3 Sandpoint, ID 83864
4 (208) 263-5494

5 *Plaintiff Pro, Se*

6
7 IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
8 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER
9 MARY PANDREA, a single woman,

10 Plaintiff,

11 vs.

12 KARI A. CLARK, a single woman,
13 and as Trustee of the Kari A. Clark Trust u/a
14 Dated June 21, 2010

15 Defendant,

16 KARI A. CLARK, a single woman
17 individually and as Trustee of the Kari A. Clark
18 Trust u/a Dated June 21, 2010

19 Counterclaimant,

20 vs.

21 MARY E. PANDREA, a single woman
22 individually and as Trustee of the Kari A.
23 Clark and Mary E. Pandrea Revocable Trust
24 u/a April 9, 2002

25 Counter Defendant.

26 I, John Pandrea, being first duly sworn on oath depose and state that:

- 27 1) I am over the age of eighteen and I am competent to testify in these matters.
28 2) I am the son of Mary E. Pandrea, I was born in 1963 and Mary and I have always
been very close.

AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 1

FILED IN IDAHO
COUNTY OF BONNER
DISTRICT COURT

2012 JUN 12 P 2:50

CLERK DISTRICT COURT

1 3) I am the nephew of Kari A. Clark and I have known Kari for well over forty-five
2 years.

3 4) During my lifetime and up until 2005, I always felt a very positive connection
4 with Kari Clark.

5 5) During my lifetime I have witnessed many selfless efforts Mary Pandrea put forth
6 to help her sister Kari Clark including assisting Kari in obtaining her interest in the real
property associated with this litigation.

7 6) During my lifetime I have witnessed, out of seven children born and **raised** by
8 Edith E. Clark, Mary solely provide loving care for her mother Edith from 1976, shortly
9 after my Grandfathers passing, until Edith's passing in 2009. Well over 30 years.

10 7) In early 2002, I *personally* witnessed Edith gift Mary a modest house
(\$89,000.00).

11 8) I witnessed My grandmother Edith live for over seven (7) very happy and healthy
12 years with Mary at her side, joyously caring for her mother Edith, including many
13 wellness visits with caring physicians, after and long after that gift was made in 2002.
14 Edith Clark died at age 96 in 2009.

15 9) I listened to verbatim audio of the January, 2013, hearing held in your honorable
16 Court in this matter and I begrudge Mr. Kuck's very baseless and unscrupulous
17 statement. Mr. Kuck stated, "Mary Embezzled from her mother". Mr. Kuck is a
18 **liar**. I begrudge any Court disposition of this matter that would fashion legitimacy to Mr.
Kuck's untruthful and misleading statement. I clearly recall researching this subject and I
believe that Mr. Kuck has violated his code of ethics.

19 10) I clearly recall listening to verbatim audio of and I begrudge Kari Clark's many
20 untruthful statements (*lies*) that she made under oath, before this honorable Court on June
21 13, 2012. I begrudge any Court disposition of this matter that would fashion legitimacy
22 to Kari Clark's untruthful and misleading statements including, but not limited to the
following.

23 a) Mr. Kuck, *question*: "Did Mary ever talk to you about the concept of
24 letting her son reside there rent free?"

25 Kari Clark, *lie*: "Never ever."

26 **Truth**: Kari A. Clark/Mary E. Pandrea Revokable Trust of 2002 states:
27 "Primary beneficiary's, (John Pandrea included) may reside ether
28 seasonally or otherwise, **rent free**".

1 b) Mr. Kuck, *question*: "When did you become aware that he was residing
2 there?"

3 Kari Clark, *2 lie's*: "1) I think I became aware on Easter Sunday of this
4 past year, 2) when my **sister Wilma and I walked over there.**",

5 I have clear knowledge that Kari Clark has been aware since at least 2006 that Mary's log cabin
6 is John Pandrea's seasonal residence, at Mary Pandrea's request. When ask about the change's
7 the Pandrea's were making to the cabin, Kari Clark stated the following under oath,

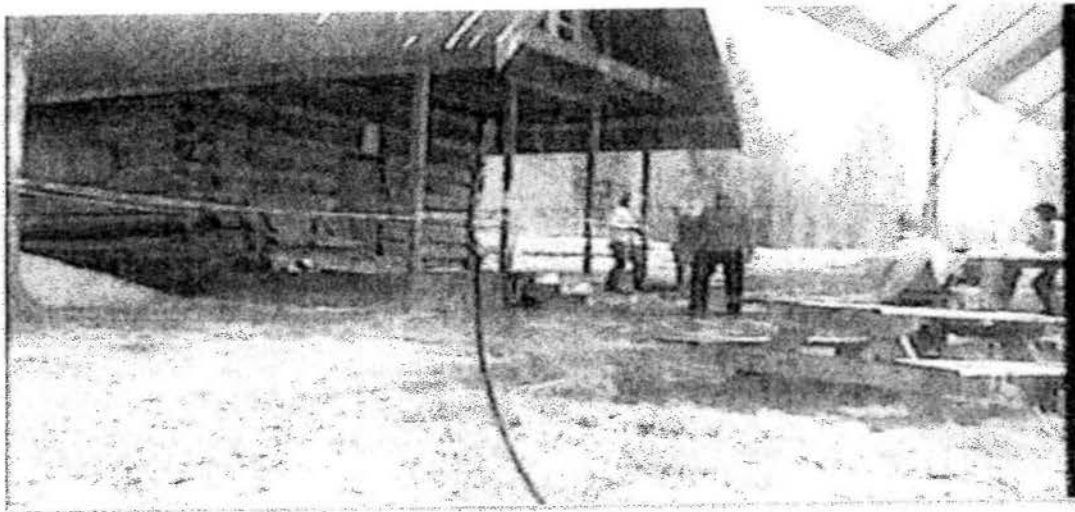
8 Kari Clark, **truth**: "I did not know that until about
9 2006"... "I absolutely was not allowed in the house"... "I could only peek
10 in through the windows and that is only when they weren't
11 around"... "they absolutely had everything locked, everything and would
12 not allow me in."..." she was over there when I went over there, besides
13 calling me filthy names; they would not let me in there. They wouldn't
14 let me in".

15 I begrudge Kari Clarks *lie*, "besides calling me filthy names", that is a flat out lie.

16 I very clearly recall Kari Clark was completely non-engaging when she very briefly visited the
17 Clark/Pandrea Trust Land and the Pandrea's residence during July, 2006. I very clearly recall
18 Kari was a passenger in a pickup truck, which pulled up, turned around and drove away. I very
19 clearly recall I could hear Kari screaming at the driver, who was hunching and appeared
20 distraught. I very clearly recall, I felt sorry for the driver, I believe it was Bob McAllister, Kari's
21 ex-husband. I very clearly recall that I went back to working on renovating my mother's log
22 cabin. I very clearly recall that I never saw Kari Clark after that time in 2006 until I captured her
23 on video/audio breaking into my seasonal residence on Easter Sunday April 8, 2012.

24 **Truth**: the following is a **still image** taken from a very telling, 22 min. (**attached 22**
25 **min. DVD, "DVD"**), including a **video/audio recording** of the Easter Sunday April 8,
26 2012, break-in and ransacking of the Pandrea's residence by Kari Clark, Brian F. Davis¹,
27 Deanna (Boyd) Barrett, Rhonda (Boyd) Carl and Wilma Mican, **who all drove up**
28 together in two, 2) automobiles, armed with a loaded firearm, and a pair of bolt cutters.
Still image excerpt of, (DVD, telling, audio/video, I hope and pray this Court
deliberates).

1) Bonner County CV 2010- 703, Brian Davis etal v. John Pandrea etal, was pending on Easter Sunday April 8, 2012, John
Pandrea has since been dismissed from CV 10-703.



(Easter Sunday April 8, 2012, Break in!, at the Pandrea's. From left to right: Ronda (Boyd) Carle, Wilma Mican, Brian F. Davis, Kari Clark and Deanna (Boyd) Barrett.)

- c) Kari Clark, *Lie*: "At some point in time I was able to get into that house".... "of course it wasn't this year".... "but, it's been years since I've actually been able to be in that house".

Truth: Kari Clark not only broke into the Pandrea's residence as seen above on Easter Sunday April 8, 2012, she also did a, coerced by Deanna (Boyd) Barrett and Rhonda (Boyd) Carle, photo shoot inside Pandrea's residence, which is disturbingly proven by the following verbatim audio excerpts of the Video/Audio recording of the Easter Sunday April 8, 2012 Break-in at the Pandrea's. (See DVD).

The above mentioned individuals were video and audio recorded breaking in while **talking** amongst themselves.

Deanna (Boyd) Barrett: "., **Private Residence of John Pandrea, No Trespassing.**" What does that mean?"

Brian F. Davis: "That's Crazy!"

1 Deanna (Boyd) Barrett: "*Brian's got his gun ready* in case they're ready
2 to ambush us."

3 Brian F. Davis: "Kari would you like to go in?"

4 Kari Clark: "I think I would like to go in there."

5 Brian F. Davis: "all you had to do is ask."

6 Brian Davis was videotaped destroying my lock with a pair of bolt cutters. Then Rhonda (Boyd)
7 Carl and Brian F. Davis were videotaped tearing down my "Private Residence, No Trespassing"
8 sign.

9 Then the intruders were recorded, loud and clear, inside my residence, this is what was said,

10 Rhonda (Boyd) Carle: "Does anybody wanna (sic) sit here and *take a*
11 *Shit!*"

12 Deanna (Boyd) Barrett: "I do, I have to go."

13 Deanna (Boyd) Barrett: "Make a muscle. Make a muscle up there. **Do It,**
14 I want to get a picture."

15 Rhonda (Boyd) Carle: "**I did.**"

16 Kari Clark: "That is mine!"

17 Deanna (Boyd) Barrett: "OK, here we go."

18 Kari Clark: "Yeaaaay, my place!"... "Well, it is my place."

19 Deanna (Boyd) Barrett: "It's not (sic), sure the hell isn't John Pandrea's
20 place."

21 Kari Clark: "Private residence."

22 Wilma Mican: "Private residence."

23 Rhonda (Boyd) Carle: "Doesn't say so anymore!"

24 (Rhonda was referring to my "Private Residence, No Trespassing" sign that Rhonda (Boyd) Carl
25 and Brian F. Davis tore down and destroyed along with my lock that Brian F. Davis destroyed
26 with a pair of bolt cutters).

27 Deanna (Boyd) Barrett: "One more picture for you."

28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 5

1 Deaana (Boyd) Barrett: "One second here, hang on."

2 Kari Clark: "My place."

3 (Verbatim audio from Easter Sunday April 8, 2012, Break in at the Pandrea's residence, DVD
4 enclosed.)

5 d) Mr. Marfice, *question*: "Is that you in the photograph ma'am?"

6 Kari Clark, *lie*: quietly, "Could be."

7 Mr. Marfice, *question*: "I'm sorry?"

8 Kari Clark, *lie*: "I'm not sure."

9
10 Mr. Marfice, *question*: "Do you know if that's a photograph of the inside
of the house?"

11 Kari Clark, *lie*: "I wouldn't know unless you told me."

12
13 Mr. Marfice, *question*: "Do you have a recollection of having your
photograph taken inside the house?"

14 Kari Clark, *lie*: "It could be me and it could be the house, I don't know."

15
16 Kari Clark broke into and ransacked the Pandrea's, including, featuring herself in a, inside the
Pandrea's house, photo shoot just over two, 2) months prior to her willful perjury of June 13,
17 2012.

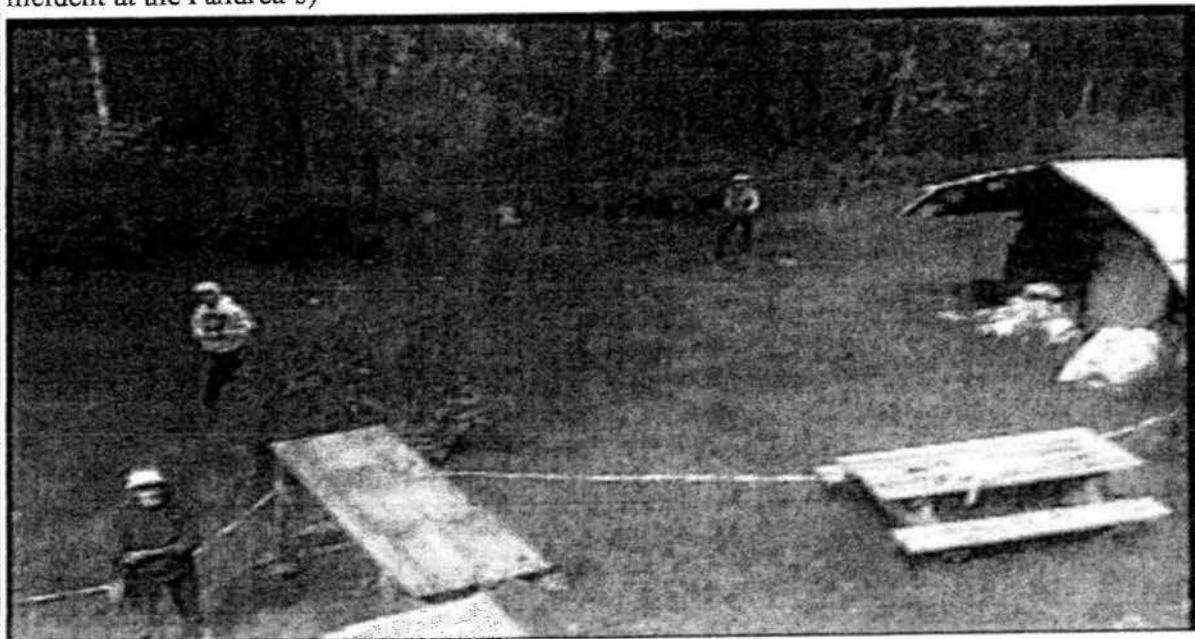
18 e) Kari Clark, *Lies*: "her son who was up on the roof at the time, was yelling
19 obscenities at me"... "somebody was yelling at us, it was John,
yelling obscenities at his two aunts."

20
21 I clearly recall that I have never yelled "obscenities" at Kari Clark ever. I begrudge her
slandering me in this fashion.

22 **Truth:** On June 14, 2012, **the day after trial in this matter.** Kari Clark,
23 Ethel Boyd and Wilma Mican, paid an unexpected and unwelcome visit to
24 myself at my residence. I recorded audio/video of that unfortunate
25 incident, (See DVD, including June 14, 2012, audio/video of harassment
26 by Kari Clark, Ethel Boyd and Wilma Mican, of John Pandrea at the
Pandrea's residence)

27
28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 6

1 (See still image excerpt below of DVD including audio/video of June 14, 2012 harassment
2 incident at the Pandrea's)



13
14 (From left to right: Kari Clark, Wilma Mican and Ethel Boyd.)

15
16 The following was said.

17 Wilma Mican: "Come on Kari, let's go."

18 Kari Clark: "I just wanna, (sic) it's my house... I want to see how my
19 house is today... It's my house."

20 Ethel Boyd: "Kari, you are taking a chance... Come here, right now. I
21 mean now!"

22 Kari is now at the front door with a large stick. She appears to be sizing up her large stick
23 against the front door window.

24 Kari Clark: "This is my house; I have every right to be in it!"

25 Ethel Boyd: "Right now, you do not!"

26 Ethel Boyd: "Hurry!"

27 Wilma Mican: "Hurry, I hear a car!"

28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 7

1 Kari Clark: "I don't give a shit..."

2 Ethel Boyd: "right now!"

3 I clearly recall about that time, I was at home, I heard and then saw Kari about to break my front
4 glass door. Kari then appeared to see me and she jumped back into the yard. I ran upstairs and
5 grabbed the video camera, which was already on and recording, the following was said,

6 Kari Clark: "That bastard John is in here...this is my house!"

7 John Pandrea: "Your trespassing on a private residence"

8 Kari Clark: "You son of a bitch this is my..."

9 John Pandrea: "Go."

10 Kari Clark: "You're trespassing!"

11 John Pandrea: "This is my private residence, do not harass me. Go"

12 Kari Clark: "Get the hell out of here you son of a bitch!"

13 John Pandrea: "This is my private residence. You do not have the right to
14 harass me. Go"

15 Wilma Mican: "I guess he doesn't want the present you brought him"

16 Kari Clark: "So when did you buy the house?"

17
18 **I clearly recall, at that time, I became frightened:**

19 John Pandrea: "This is my private residence; you do not have the right to
20 harass me. Go Now!...Go now people. This is my private residence.. I'm
21 calling the cops"

22 Kari Clark: "Is mommy here today taking care of you?"

23 John Pandrea: "This is my private residence; Go now!"

24 Wilma Mican: "We loved your music!"

25 (Verbatim audio from June 14, 2012, harassment at the Pandrea's residence, DVD enclosed)

26 f) Kari Clark, *lie*: "Parcel one belongs to Mary Pandrea, my sister Mary
27 Pandrea..."

28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 8

1 While that is a fact, (Parcel one certainly **does** belong to Mary Pandrea), Kari Clark *lied* to this
2 Court, as is clearly proven in Kari's recorded statements of April 8, 2012 and June 14, 2012 at
3 the Pandrea's residence **on parcel one**. *Kari states repeatedly: "My house!" and repeatedly:*
4 *"My place!"*

5 11) I clearly recall, two weeks later, on June 28, 2012, Ethel Boyd with her two young
6 adult teenage grandsons trespassed at the Pandrea's residence, unwelcome and **without**
7 **any legal right**. One of Ethel's grandson's (Joe Barrett, son of Deanna (Boyd) Barrett),
8 gave my 70 year old mother, Mary Pandrea, a good shove as he bullied his way passed
9 her with his grandmother, Ethel Boyd, peacefully looking on. I captured **audio and**
10 **video** of the event on my wrist watch camera. *I clearly recall catching my mother as*
11 *she went flying back*. I clearly recall physically restraining her to prevent her from being
12 harmed further. *I clearly recall that I was extremely distraught*. I clearly recall
13 restraining myself and staying calm.

14 (See still image excerpt below of DVD including audio/video of June 28, 2012 **harassment** and
15 **assault** incident at the Pandrea's)

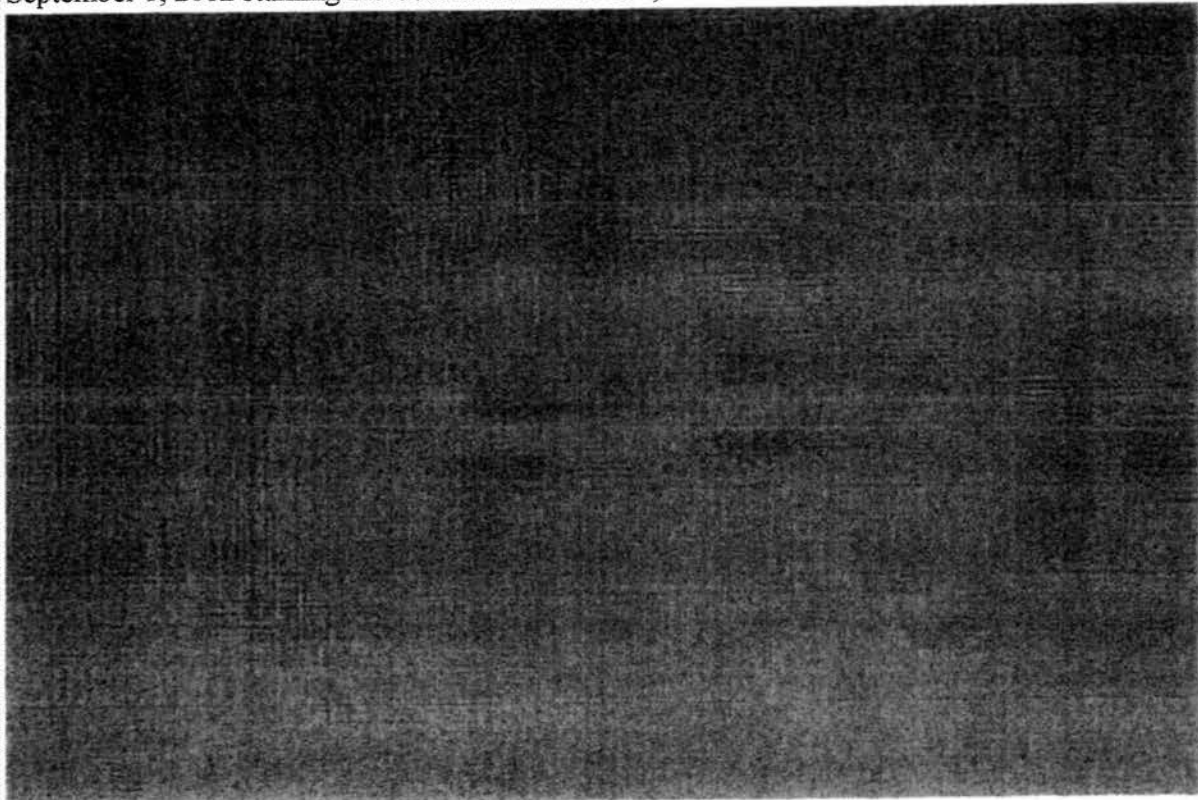


16 (Ethel Boyd looks on as her grandson Joey Barrett assaults Mary Pandrea at Mary's
17 private residence on June 28, 2012, Ken Barrett is seen trailing.)

18 12) I clearly recall that I filed two lawsuits, one against Brian Davis, because Mr.
19 Davis came to my home, on at least three separate occasions, stalking with a gun; this is
20 in addition to Mr. Davis filing two frivolous claims against me in Bonner County, both of
21 which were dismissed. I filed the other suit against Ethel Boyd, Kari Clark, Deanna
22 (Boyd) Barrett, Rhonda (Boyd) Carle and Wilma Mican, because these individuals have
23 also shown a pattern of threatening harassment toward me and my family. The suit

1 against Mr. Davis was dismissed on a technicality. I dropped the other suit because of
2 the same procedural flaw. My legal action *did* put these individuals on notice and they
3 never returned, until September 1, 2012, when Ethel Boyd and Terri Boyd-Davis were
4 captured on surveillance cameras, stalking the Pandrea's residence with what appears to
be a firearm that Ethel and Terri appear to pass back and forth.

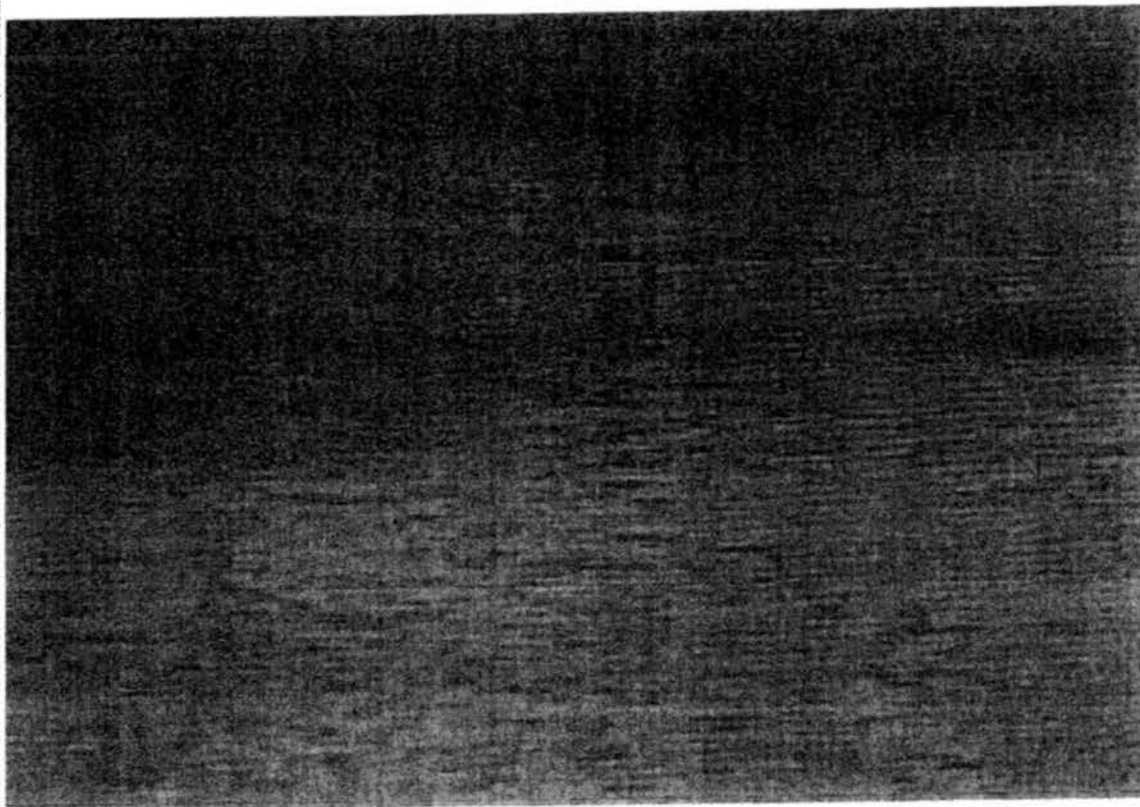
5 (See two enhanced, still image excerpt's below of DVD including surveillance video of
6 September 1, 2012 stalking incident at the Pandrea's)



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19
20 (Ethel Boyd left and Terri Boyd-Davis right, Ethel appears to be holding a gun in her right hand).

21 (See DVD, including September 1, 2012, stalking incident at the Pandrea's).

22
23
24
25
26
27
28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 10



(Terri Boyd-Davis left and, Ethel Boyd right, Terri appears to be holding a gun in her right hand),

(See DVD, including video of September 1, 2012, stalking incident at the Pandrea's).

13) I clearly recall In early 2013, Mary Pandrea discovered through investigation and showed me the following document, see below, May 10, 2012, Deed of Trust which *Ethel Boyd personally filed* at the Bonner County Recorder's Office, just one month prior to the trial on this matter on June 12 and 13, 2012 before this Court.

The names of the following individuals appear on the document, testimony to their individual efforts toward their ill-fated conspiracy, designed to steal Mary Pandrea's land!

Shirley Bade Law, top of Page

Return to, after recording: **Terri Boyd-Davis**, upper left

Recorded for: **Ethel M. Boyd**, upper right

Kenneth and **Deanna (Boyd) Barrett**: Beneficiary's

AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION FOR RECONSIDERATION. - 11

1 **Kari A. Clark: Grantor Trustee** (of the very fraudulent **Kari A. Clark Trust** u/a June
2 **21, 2010**).

3 **Unbelievable, blatant, disrespect for any concept of fairness or law and order.**

4 05/10/2012 13:15 2886654621

SHIRLEY BADE LAW

PAGE 2

5 After Recordation Returns:
6 Terri Boyd-Davis
7 12738 N. Strahorn Rd.
8 Hayden, ID 83835

Instrument # 826342
BONNER COUNTY, SANDPOINT, IDAHO
5-17-2012 02:08:29 No. of Pages: 4
Recorded for: ETHEL M BOYD
MARIE SCOTT Fee: 19.00
Ex-Officio Recorder Deputy
Index to: REAL ESTATE DEED OF TRUST

DEED OF TRUST

9 THIS DEED OF TRUST, Made this 10th day of May, 2012, BETWEEN KARI A. CLARK,
10 individually and as Trustee of the Kari A. Clark Revocable Trust, u/a June 21, 2010, herein called GRANTOR, whose address is 304
Johnson Street, Sutherlin, Oregon, 97477, PIONEER TITLE COMPANY OF KOOTENAI COUNTY, an Idaho Corporation,
herein called TRUSTEE, whose address is 100 Wallace Avenue, Coeur d'Alene, Idaho, 83814 and KENNETH & BRANNA
BARRETT, husband and wife, herein called BENEFICIARY, whose address is 8919 Kiger Street, Lorton, Virginia, 22079.

11 WITNESSETH: This GRANTOR does hereby irrevocably GRANT, BARGAIN, SELL AND CONVEY TO TRUSTED IN TRUST,
12 WITH POWER OF SALE (in property in the County of Bonner, State of Idaho, described as follows, and containing not more than
eighty acres: Parcel Number: RP 59N02W116252A, Parcel Description: 11-59N-2W-T20-40 Lying Northwesterly of the Cornerline
of Tawara Creek, T20-40, commonly known as 4087 Upper Park River Road, Sandpoint, Idaho, 83864, described in more detail on the
attached Exhibit "A," 40

13 TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the rights, power and authority hereinafter given
to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

14 For the purpose of Securing payment of the indebtedness evidenced by a promissory note, of even date herewith, executed by
GRANTOR in the sum of TEN THOUSAND AND 00/100 Dollars. (\$10,000.00), and to secure payment of all such further sums as
15 may hereafter be loaned or advanced by the Beneficiary to the Grantor herein, or any or either of them while record owner of present
interest, for any purpose, and of any notes, drafts or other instruments representing such further loans, advances or expenditures
16 together with interest on all such sums at the rate therein provided. Provided, however, that the making of such further loans, advances
or expenditures shall be optional with the Beneficiary, and provided, further, that it is the express intention of the parties to this Deed
of Trust that it shall stand as continuing security until paid for all such advances together with interest thereon.

28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 12

0300

trust hereby created, and when any such substitution has been filed for record in the office of the Recorder of the county in which the property herein described is situated, it shall be conclusive evidence of the appointment of such trustee or trustees, and such new trustee or trustees shall succeed to all of the powers and duties of the trustee or trustees named herein. Request is hereby made that a copy of any Notice of Default and a copy of any Notice of Sale hereunder be mailed to the Grantor at his address hereinbefore set forth.

Kari A. Clark
KARI A. CLARK, individually and as Trustee of the
Kari A. Clark Revocable Trust, on June 21, 2010

State of Oregon, U.S.
County of Douglas

On this 10th day of May, in the year 2012, before me a Notary Public in and for said state, KARI A. CLARK, individually, and as Trustee of the Kari A. Clark Revocable Trust, on June 21, 2010, personally appeared and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and on oath stated that she is authorized to execute this instrument, and acknowledged that she executed the same.

Jennifer Arlene Sanguine
Notary Public
My Commission Expires on 10/10/13



- 15) I believe the above displayed document which fraudulently and covertly conveys all of Mary's interest in the land that Mary purchased, maintained and improved is overwhelmingly sinister. The fact that it was done just one month prior to trial in this matter is incomprehensible to me. Furthermore, I believe reasonable minds would expect to go straight to jail if they attempted such hurtful nonsense.
- 16) I believe that the barrage of physical harassment and abuse of legal process in which Mary has been forced to endure since 2005 is a direct result of the very selfish, ill-conceived, jealousy driven, conspiracy of Kari Clark, Wilma Mican, Jean Coleman and ring leader Ethel Boyd, four out of eight children **born** to Edith E. Clark, and Ethel Boyd's three daughters, Rhonda (Boyd) Carle, Terri Boyd-Davis, Deanna (Boyd) Barrett and Brian F. Davis, against Mary Pandrea. Three of Edith E. Clark's children include Nellie Gilbertson, Grace Drechsel and Harold W. Clark, all very much support Mary Pandrea, as do all of their many offspring including Mary's children.
- 17) I believe this honorable court has adjudicated this matter fashioning credibility to the **lies** of Kari Clark, Terri Boyd-Davis, Wilma Mican and Ms. Clarks attorney Richard Kuck and I begrudge that. I would begrudge any future adjudication of this matter by this Honorable Court, without first deliberating all of the physical evidence Mary Pandrea has

submitted in her Re-Filed Motion for Reconsideration, including this Affidavit and accompanying "DVD".

18) I believe Mary Pandrea is very much deserving of quiet enjoyment of her land and residence.

19) I believe Mary Pandrea is likely to be physically harmed by these individuals.

20) I believe I will likely be physically harmed by these individuals.

21) I believe that Kari Clark, Ethel Boyd, Terri Boyd-Davis, Brian F. Davis, Deanna (Boyd) Barrett, Rhonda (Boyd) Carl, Wilma Mican, Jean Coleman and others who actively participate in the Boyd criminal conspiracy belong in jail, for they have caused irreparable harm on a grand, voluminous scale. They must be stopped, and held accountable.

22) I believe this Honorable Court should do the right thing, refer this difficult matter to the proper jurisdictional authority for investigation and criminal prosecution. Mary Pandrea, Debbie Gadbow and I have all made complaints to the Bonner County Sheriff's Office, addressing the harassment, stalking and other voluminous criminal activity. I clearly recall that I was told I would be arrested for false reporting if I complained any further. I honestly felt like I was in a foreign country. I am *not* at all *safe* there at my seasonal residence and *I worry greatly for my mother's safety*.

23) I believe that Mr. Kuck works for Ethel Boyd. I believe that Kari Clark is completely disengaged from these proceedings at this juncture. I distinguish observably that Kari Clark is not likely to gain anything from her disastrous and perfidious efforts.

24) I believe Ethel Boyd and her criminal conspiracy, in their quest for the general destruction of Mary Pandrea, will have succeeded in destroying and or seriously damaging the lives of many individuals, including the Pandrea's, but specifically themselves, before they are stopped and held accountable.

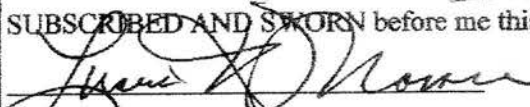
25) I live with fear, anger and anxiety as a direct result of the unlawful actions of Kari Clark, Ethel Boyd, Terri Boyd-Davis, Brian F. Davis, Deanna (Boyd) Barrett, Joe Barrett, (juvenile son of Deanna (Boyd) Barrett), Rhonda (Boyd) Carle, Wilma Mican, Jean Coleman and others. I perceive their engagements, including but not limited to those listed above, to be very hurtful and injurious to me and my family, especially my mother Mary E. Pandrea.

1
2
3
4 FURTHER YOUR AFFIDAVIT SAYETH NAUGHT.

5
6
7 

8 John Pandrea

9
10 SUBSCRIBED AND SWORN before me this 10 DAY OF June, 2013.

11 
12 Notary Public for Hawaii

13 Residing at: Hilo, Hawaii 96720

14 My commission expires: 7-17-2013

15 LUCILLE K. MOSSMAN
16 NOTARY PUBLIC



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28 AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION
FOR RECONSIDERATION. - 15

See Attached
Hawaii Jurat.

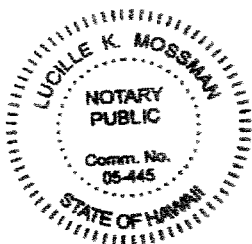
JURAT

STATE OF HAWAII

§

COUNTY OF HAWAII

Subscribed and sworn to (or affirmed) before me, Lucille K. Mossman, Notary Public, on this 10th of June, 2013, JOHN PANDREA, individual.



Commission No. 05-445

Who has proved to me on the basis of satisfactory evidence to be the person(s) whose name is subscribed within this instrument. And did say that he/she/they executed the foregoing instrument as his/her/their free act and deed, and if applicable, in the capacity shown, having been duly authorized to execute such instrument in such capacity.

WITNESS my hand and official seal

A handwritten signature of Lucille K. Mossman in cursive script.

Lucille K. Mossman, Notary Public
My Commission Expires: 7/17/2013

NOTARY CERTIFICATION

Date of Document: Undated

Date Signed: June 10, 2013

Total Number of Pages: 16 with this JURAT

Description of Document: AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION FOR RECONSIDERATION

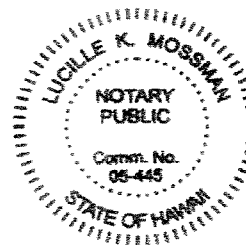
Signer: JOHN PANDREA (son of plaintiff)

Judicial Circuit: Third

Name of Notary: LUCILLE K. MOSSMAN

Signature: 

Date: June 10 2013



Commission No. 05-445

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Courtesy Copy to:

The Honorable
Judge John Patrick Luster and
The Honorable
Judge Richard Christensen
Kootenai County Courthouse
PO Box 9000
Coeur d'Alene, ID 83816-9000

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Kenneth and Deanna Barrett
8919 Kiger Street
Lorton, Virginia 22079

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile



Mary Pandrea
Plaintiff, Pro Se
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

AFFIDAVIT OF JOHN PANDREA IN SUPPORT OF PLAINTIFF MARY E. PANDREA'S RE-FILED MOTION FOR RECONSIDERATION. - 16

Mary E. Pandrea
4687 Upper Pack River Road
Sandpoint, Idaho 83864
(208)263-5494

Plaintiff, Pro Se

CLERK OF DISTRICT COURT
BONNER COUNTY, IDAHO

JUL 11 2012 P 2 49

CLERK OF DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

MARY E. PANDREA, a single woman,

Plaintiff,

vs.

KARI A. CLARK, a single woman
and as Trustee of the Kari A. Clark Trust
u/a/ Dated June 21, 2010

Defendant.

NO. CV-11-835

**AFFIDAVIT OF DEBBIE A. GADBAW
IN SUPPORT OF MARY PANDREA'S
RE-FILED MOTION FOR
RECONSIDERATION OF TRIAL
DECISION**

(WITHOUT ARGUMENT)

KARI A. CLARK, a single woman
individually and as Trustee of the Kari A.
Clark Trust u/a Dated June 21, 2010

Counterclaimant

vs.

MARY E. PANDREA, a single woman
individually and as Trustee of the Kari A.
Clark and Mary E. Pandrea Revocable Trust,
u/a April 9, 2002

Counter Defendant.

AFFIDAVIT OF DEBBIE A. GADBAW

AFFIDAVIT OF DEBBIE A. GADBAW-1

1 I, Debbie A. Gadbow, being first duly sworn on oath depose and state that:

2 1. I am over the age of eighteen and competent to testify to these matters.

3
4 2. Plaintiff Mary E. Pandrea is my mother and I am very concerned for her safety and
5 welfare in this situation.

6 3. Defendant, Kari A. Clark is my aunt, and is my mother's sister, and I have
7 personally known both women for over 50 years.

8
9 4. I have been privy to the actions taken against my mother in this proceeding, and in
10 matters outside of this proceeding, that have culminated into a tidal wave of efforts to take my
11 Mother's property from her at any expense.

12
13 5. I witnessed the 2-day trial in this case that occurred in June of 2012 and observed the
14 testimony given by Mary Pandrea and Kari Clark.

15
16 6. I personally heard Kari Clark intentionally lie under oath *numerous times* during the
17 two day trial.

18 7. I was witness to testimony, under oath, whereby Kari Clark fabricated her story about
19 **\$15,000** that my mother had helped her temporarily invest so that Kari Clark would not have to
20 pay taxes on this money. When Kari Clark found another house in Sandpoint that she could re-
21 invest the money into without a tax penalty, my mother gladly returned Kari Clark her money plus
22 an additional **\$2,000** so she could purchase that house. Kari incredulously fabricated a story that
23 my mother kept this money and that my mother needed it because her husband had bad credit.
24 ALL LIES. I was personally aware of this transaction when it occurred, since my mother and I
25 are very close; and I remember the details very clearly. (I even remember the house in Sandpoint
26

27 AFFIDAVIT OF DEBBIE A. GADBAW-2

1 was a cute little home on St. Clair Street in downtown Sandpoint.

2 8. I was witness to Kari Clark admitting under oath that she purposefully quit claim
3 deeded herself all of the 15 acres in Parcel II. Realizing she should not have said that, she then
4 lied and said she made a mistake by telling the truth in the first place!
5

6 9. I witnessed Kari Clark lying under oath about her niece, Terri Boyd-Davis. Kari
7 denied Terri Boyd-Davis worked for Shirley Bade. Terri Boyd-Davis later testified that she did
8 work for Shirley Bade.
9

10 10. I witnessed Kari Clark lie when she testified that it was the first time she had ever been
11 in Coeur d' Alene. Kari Clark lived in Coeur d' Alene in the 1970's at a place called the English
12 Village and was employed as a waitress at the Log Cabin Restaurant.
13

14 11. I witnessed Kari Clark lie when she testified that her father, Harry Clark, willed her
15 the 5.3 acre parcel X when in reality my grandfather did not have a will, but instead had set up an
16 irrevocable trust (The Edith and Harry Clark Trust). This Trust made no provision for Kari Clark
17 to receive property. Harry Clark was deceased when Kari Clark received the property; and it was
18 through my mother's efforts in preparing a form signed by all the heirs, along with my mother's
19 letter requesting Bank of Idaho Trust Department adhere to that request, that she received any
20 property at all. Certainly it was not through any kind of a will. My grandfather died intestate,
21 leaving no will.
22

23 12. I witnessed Kari Clark lie under oath when she testified that she had not been in the
24 house on Parcel I for several years. I was aware that Kari Clark, Brian Davis, Deanna (Boyd)
25 Barrett, Rhonda (Boyd) Carle, and Wilma Mican had all trespassed and proceeded to break into
26 and enter the house on Easter Sunday of 2012. My brother, John Pandrea, was residing in the
27

1 home at the time and these individuals unlawfully obtained access to his personal belongings and
2 his right to privacy. The Bonner County Sheriff's Office responded only to find Kari Clark and
3 Wilma Mican still on the property. These women lied to the responding officer and said they
4 were just visiting their father's grave, which isn't even located on or near Parcel I. A video
5 recording of their crime was provided to the Bonner County Sheriff's Office with no action taken.
6

7 13. I am aware and have personal knowledge that Kari A. Clark is conspiring with other
8 family members who are also trying to take my mother's property. The other family members are
9 all part of Ethel Boyd's family including: Terri Boyd-Davis, Brian Davis, Deanna (Boyd) Barrett,
10 Kenneth Barrett (their 2 young adult sons), Rhonda (Boyd) Carle and Ethel Boyd's two sisters;
11 Jean Coleman and Wilma Mican. Ethel Boyd is my mother's half sister, sharing the same mother.
12

13 14. I have knowledge that Kari Clark is under investigation by the U. S. Housing and
14 Urban Development (HUD) Department for fraudulently receiving a modified home loan by
15 failing to report her Idaho assets. Kari Clark's daughter, Mary Felker, conveyed this to me
16 during a private phone conversation in the summer of 2012. According to Mary Felker, Kari
17 Clark is most likely going to lose all of her Idaho property to repay HUD.
18

19 15. I have knowledge of Kari Clark's Deed of Trust created in May of 2012 between
20 Deanna (Boyd) Barrett and Kenneth Barrett conveying all of my mother's interest in her Idaho
21 home. I have reason to believe that Kari Clark conveyed this property to the Barrett's to either
22 hide her assets from HUD and/or to conspire with the Boyd's to take my mother's property
23 through a pre-arranged default by Kari Clark on the supposed "loan".
24

25 16. I have knowledge and belief that Kari Clark and the Boyd family have been harassing
26 my mother endlessly for many years in an effort to drive my mother from her home. I have
27

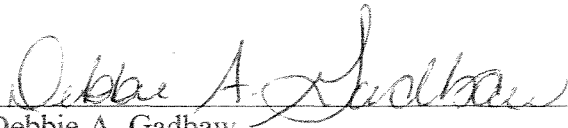
AFFIDAVIT OF DEBBIE A. GADBAW-4

1 personal experience of being stalked by Terri Boyd-Davis and Ethel Boyd on September 1, 2012.
2 After viewing the home surveillance camera my mother installed, and seeing guns, I contacted the
3 Bonner County Sheriff's Office.
4

5 17. I have knowledge and belief that a consorted effort is underway between Kari Clark
6 and the Boyd family to deprive my mother of her home, her right to quiet enjoyment of her home,
7 and her right to protection, by using Mr. Davis' ex-LAPD experience to unduly influence the
8 Bonner County Sheriff's Office from properly protecting my mother.
9

10 18. I have knowledge and personal experience of the harm that Kari Clark and the Boyd
11 family have inflicted upon my mother. I have seen videos, pictures, and eye-witness accounts in
12 addition to verbal and written falsities where these individuals have slandered and harassed my
13 mother for many years. Mary Pandrea has suffered enough and this organized conspiracy can only
14 be disbanded by a final and succinct separation of any and all communication and physical contact
15 between Kari Clark, the Boyd family and my mother.
16
17
18
19

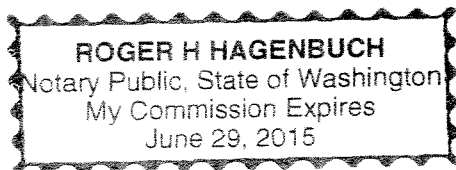
20 FURTHER YOUR AFFIDAVIT SAYETH NAUGHT.

21 
22 Debbie A. Gadbow
23 11616 South Chalet Drive
24 Cheney, WA 99004
25
26
27

1 SUBSCRIBED AND SWORN before me this 12 DAY OF June, 2013.

2
3 Roger H. Hagenbuch
4 Notary Public for Washington

5 Residing at: Cheney WA
6 My commission expires: 6-29-2015



AFFIDAVIT OF DEBBIE A. GADBAW-6

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2013, I served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Richard K. Kuck
RICHARD K. KUCK, P.C.
P.O. Box 1320
408 Sherman Ave., Ste. 205
Coeur d'Alene, ID 83816-1320
(208) 667-3379


☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Courtesy Copy to:
The Honorable
Judge John Patrick Luster and
The Honorable
Judge Richard Christensen
Kootenai County Courthouse
PO Box 9000
Coeur d'Alene, ID 83816-9000

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile

Kenneth and Deanna Barrett
8919 Kiger Street
Lorton, Virginia 22079

☒ US Mail
☐ Overnight Mail
☐ Hand Delivered
☐ Facsimile


Mary Pandrea
Plaintiff, Pro Se
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Sandpoint, Idaho 83864
(208)263-5494